

SR&ED cases regarding "technological eligibility"

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<u>TOPICAL AREA</u>	<u>APPELLANT</u>	<u>PRIMARY ISSUE</u>	<u>WIN - LOSE - DRAW?</u>	<u>RULING & RATIONALE</u>	<u>IMPLICATIONS: UNRESOLVED ISSUES AND OPPORTUNITIES</u>	<u>LONG-TERM SIGNIFICANC</u>
1) a) TECHNOLOGICAL ADVANCEMENT	Northwest Hydraulic	System uncertainties	Win	4 of 5 projects eligible due to "system uncertainties"	Landmark case on technological eligibility	High
	Rainbow Pipeline	Technological Advancement (TA)	Win	rejection of an hypothesis is an advance	Significant precedent definition of "TA"	High
2) a) BUSINESS VS. TECHNOLOGY	CW Agencies	software development - business vs. technology?	Lose	3 strikes: no hypotheses, lack of records, 3rd party defense	Need to focus on technology	Moderate
	Nashen	software development - business vs. technology?	Draw	2 of 4 projects eligible - technology vs. business	bus. vs. tech. software - eg. Patents U.S. vs. Japan & Europe	Moderate
	Zeuter	Is transcribing "info" eligible SR&ED?	Lose	As per NW Hydraulics ruling	Need to verify "data collection" is "commensurate"	Moderate
3) a) SYSTEMATIC INVESTIGATION(S) & ADEQUATE RECORDS	Hun-Medipharma	eligibility without "clinical trials"	Win	SR&ED work can be "experimentation OR	"SI" envisions contemplation of technological	Moderate
	RIS Christie	"lack of documentation"	Lose - round 1	ineligible - lack of any experimentation or analysis	Successful result &/or patent NOT proof of experimentation	Moderate
			Win - round 2 appeal (FCA)	engineer died prior to trial - court sympathetic	courts may be sympathetic for CCPC's in extreme circumstances	Moderate
	R.J. Miller	lack of technical documentation	Lose	claimant must provide evidence	need evidence of experimentation	Low
	Blue wave Seafoods	challenging science officer's analysis	Lose	insufficient evidence to refute CRA recommendations	challenge auditor qualifications before opinion rendered	Moderate
	Maritime-Ontario Freight Lines	hardware & software adequacy of documentation	Lose	must illustrate methods utilized & results	need evidence of experimentation	Low