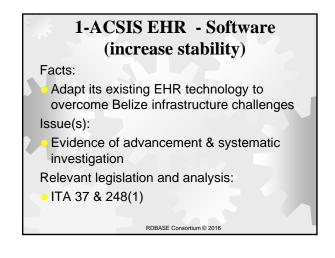




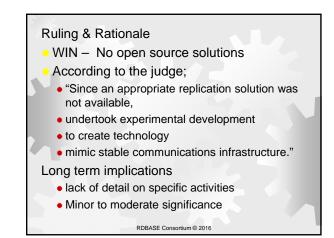
I - Recent SR&ED tax cases & related issue(s)											
SR	&ED TOPICAL AREA	APPELLANT	PRIMARYISSUE	WIN/LOSS							
Te	chnological eligibility										
	Software	1) ACSIS EHR	Work to increase stability	WIN							
		2) Emotion	Search Engine Optimization	LOSS							
		3) ITC Invoice to Cash Inc	. Use of process mining	LOSS							
Fin	inancial issues										
	Court fees	4) ACSIS EHR	Reimbursement of legal fees	WIN							
	Unpaid SR&ED wages	5) Jaft	Wages owing only if SR&ED eligible	LOSS							
	Late filing	6) Easy Way Cattle	Failure to file sch 31	LOSS							

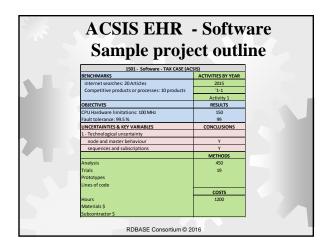


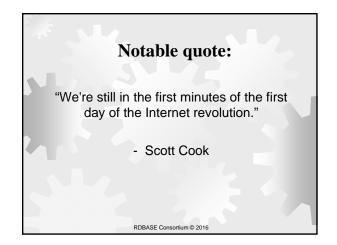


Analysis

- Available open source replication solutions different purposes & connectivity structures
- how to exchange to other nodes > changes queued from extended dis-connectivity
- Approaches had to be formulated to
- transport data
- preserve & merge changes to records
- multiple databases
- multiple locations
- frequent interruptions



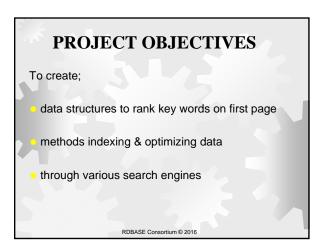


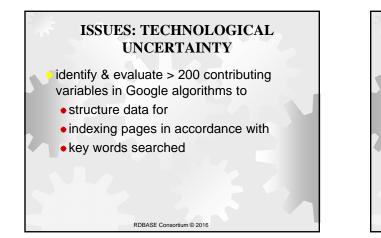


2 - EMOTION – eligibility of SEO related work- LOSS

Facts:

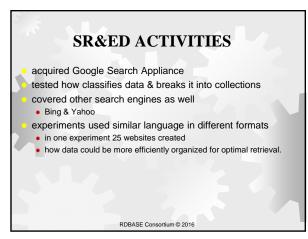
- division named Rank Higher
- methods to optimize webpage designs
- retrieval & ranking in search engines
- several years of prior SR&ED claims
- informal Procedure 2012
 - federal ITCs of \$51,196
 - limited claim to \$25,000



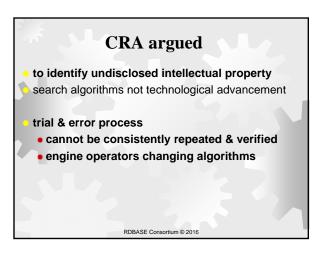


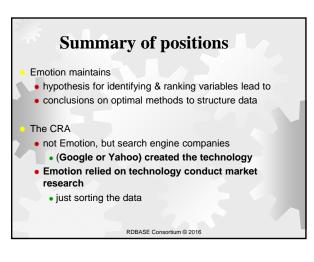
RESULTANT TECHNOLOGICAL ADVANCEMENT – page indexing

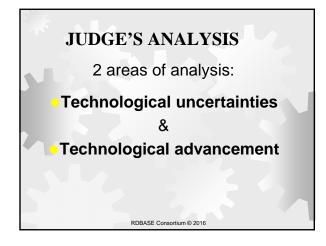
- propose most effective structure of data for indexing search engine companies to optimize their algorithms
- to more effectively use the 200+ factors in the algorithm;
- in effect, extending the knowledge about search engine algorithms for indexing pages.









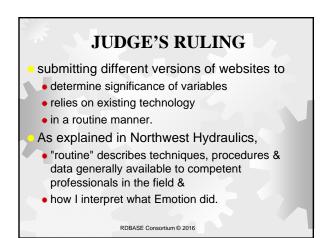


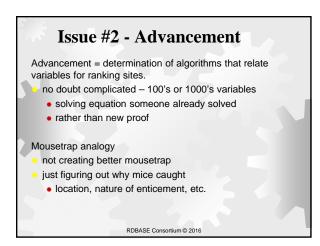
Issue #1 - Uncertainty

 how on-page & off-page variables interrelate to determine ranking &

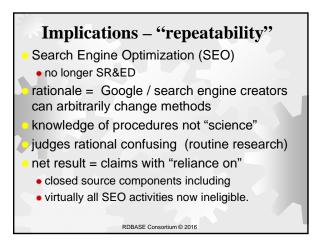
how to structure data to improve ranking.

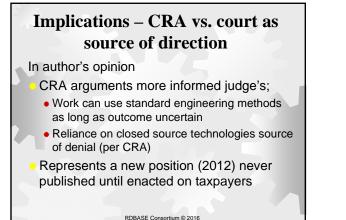
Certainly, I would consider this in the nature of applied research, but is this type of uncertainty one that, citing Northwest Hydraulics, "cannot be removed by routine engineering or standard procedures?"

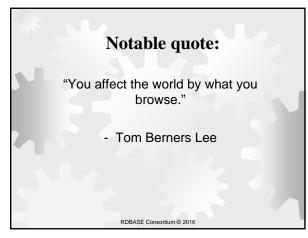












3 - ITC INVOICE TO CASH INC – Software (interoperability) Facts: The Appellant claimed federal ITCs of \$32,425 & elected Informal Procedure (\$25,000). claimed objectives & areas of uncertainty understanding structure of data

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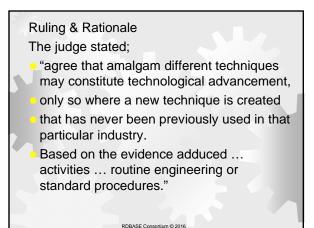
• third party software vendor.

Issue(s): Advancement a Relevant legislati

- Advancement & systematic investigation
- Relevant legislation and analysis:
- ITA 37 & 248(1)

Claimant admitted technique of process mining available 2008

- CRA expert witness
- techniques existed in 2007 &
- information publicly available.



Long term implications – due diligence / prior art comparison

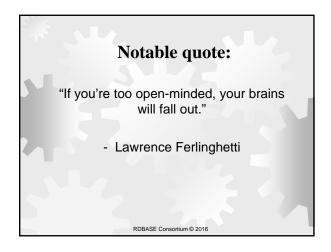
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- combinations of dif
- combinations of different techniques
- could lead to technological advancement

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 requires > comparison existing techniques & knowledge







4 -ACSIS – increase in legal fee reimbursement to 95% - WIN

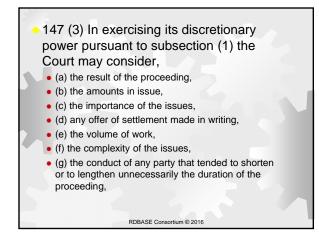
Facts:

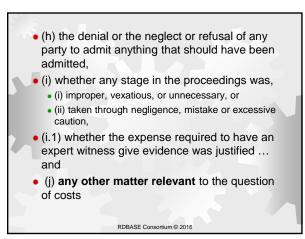
filed Motion to increase cost award from 50% to 100%

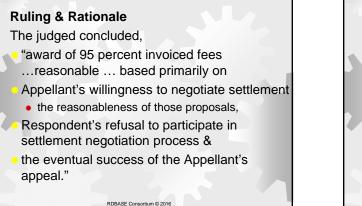
Issue(s):

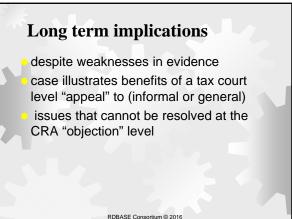
circumstances to award full legal costs? Relevant legislation and analysis:

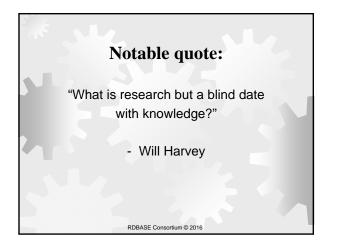
- Tax Court of Canada Rules (General Procedure) Rule 147 &
- Tax Court of Canada Act RDBASE Consortium © 2









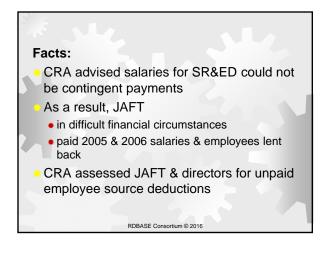


5 - Jaft – Wages owing only if SR&ED eligible - LOSS

Facts:

- 3 employees "development agreement"
- compensation linked to SR&ED claim
- reduced if SR&ED reduced
- Salaries initially unpaid but
- claimed for SR&ED as future contingent liability
- avoid liability employee source deductions

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Issue(s):

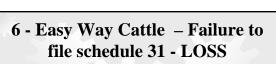
- Could we achieve objectives
 - not paying taxes until SR&ED wages approved
 - using existing income tax act rules?

Relevant legislation and analysis:

- Applied under provincial legislation (Manitoba) to have employment contracts & related salaries rescinded
- could have effect of over-riding federal income tax legislation

Ruling & Rationale SR&ED - UNPAID WAGES The judge ruled, "This is a matter for the Tax Court,with In fact the SR&ED legislation contemplates expertise in tax matters. unpaid amounts for SR&ED. contrary principle judicial economy as, CRA position outcome of Queen's Bench (provincial) appeal Incompetent vs. Malicious? • must still be heard by Tax Court..." Legislation & planning opportunities have Long term implications been discussed n CRA's position (UNPAID Wages) "semi- SR&ED Newsletter 2004-1 (PDF) or correct" watch video taxpayer could achieve similar objectives

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Facts:

year;"

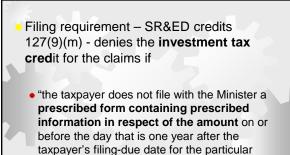
- filed the SR&ED form (schedule 32)
- which contained all required cost information by the 18 month corporate filing deadline.

did not file sch 31 (ITC calculation) deadline
 Issue(s):

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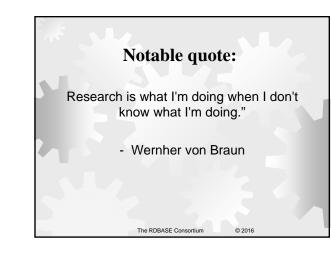
 Should company be eligible for ITC's if all SR&ED tax forms not filed by deadline?

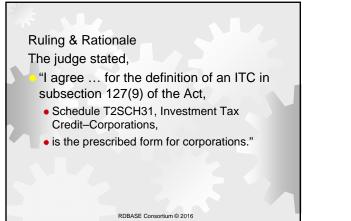
Relevant legislation and analysis: ITA: 127(5 & 9), 244(16) & 248(1) Appellant argued Sch 31 not prescribed form & even if it was sch 32 already provided all prescribed information. Respondent argued Schedule 31 is the prescribed form which must be filed definition of investment tax credit in subsection 127(9)(m).

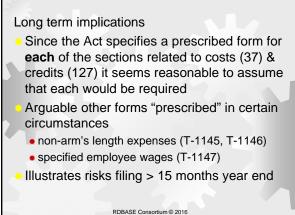


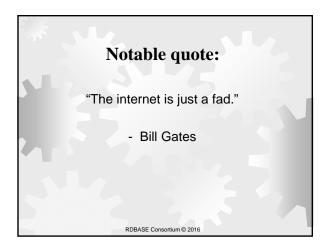
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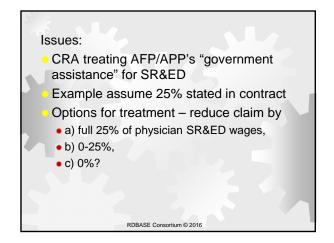


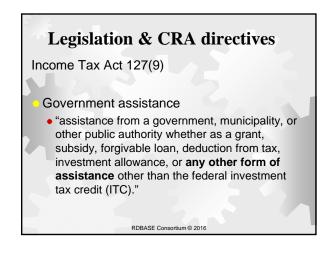


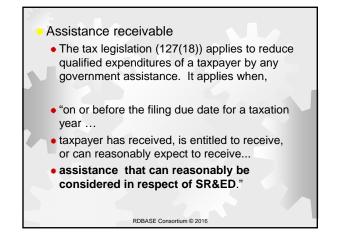












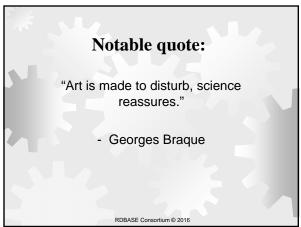


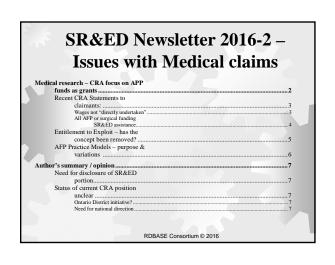
- be considered in respect of the SR&ED assistance non-qualifying expenditures will
- also reduce qualified SR&ED where
 - assistance agreement does not distinguish
 - payments eligible & non-eligible activities

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Analysis If "assistance agreement" does not provide a breakdown CRA approach reduce SR&ED claim by 25% SR&ED wages Legislation only requires "reasonable" allocations to research. RDBASE Consortium © 2016

Implications and author's commentary What are sources of reasonable allocations Author's experience - some hospitals willing to provide information & others not If CRA continues to enforce this position • in interest of each research hospital to provide R&D vs. non-R&D costs • to research staff.

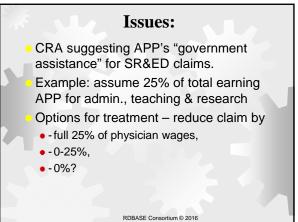


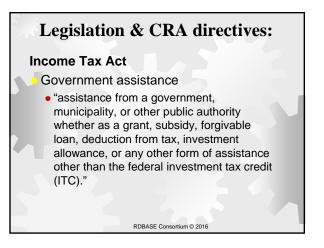




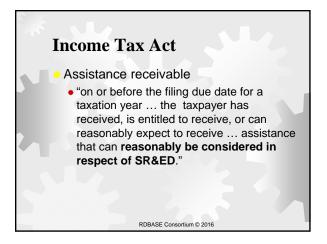
Medical research – CRA focus on APP funds as grants Facts: Many physicians paid through an alternate payment plan (APP) or funding plan (AFP). common for specialists particularly where time / patient not predictable APP usually fixed payment stipulating 20-40% for administrative, teaching & research details often unavailable / hospitals unwilling

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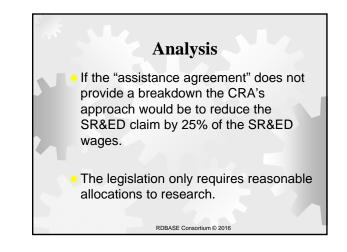


to provide



CRA - Assistance & Contract Payments Policy

- 4.3.2 Qualified SR&ED expenditures
 - Qualified SR&ED expenditures are reduced by any assistance ... that can reasonably be considered to be in respect of the SR&ED.
 - assistance and contract payments in respect of non-qualifying expenditures relating to the SR&ED will also reduce the qualified SR&ED expenditures where the assistance agreement does not distinguish payments for eligible activities and costs from payments for noneligible activities and costs.



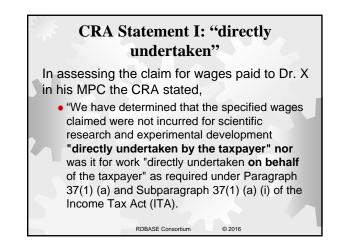
CRA Statement I: "directly undertaken"

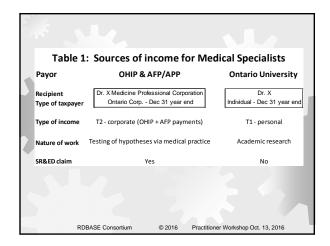
In assessing the claim for wages paid to Dr. X in his MPC the CRA stated,

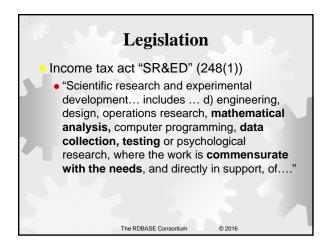
• "We have determined that the specified wages claimed were not incurred for scientific research and experimental development "directly undertaken by the taxpayer" nor was it for work "directly undertaken on behalf of the taxpayer" as required under Paragraph 37(1) (a) and Subparagraph 37(1) (a) (i) of the

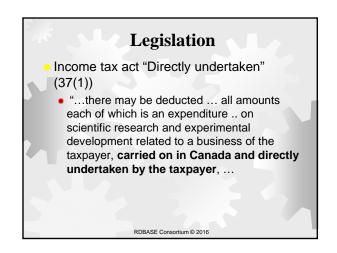
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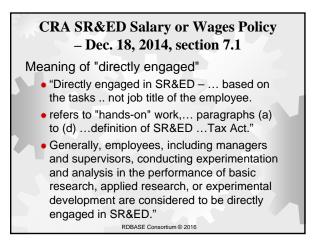
Income Tax Act (ITA).

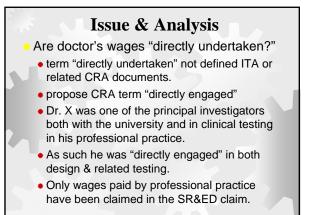






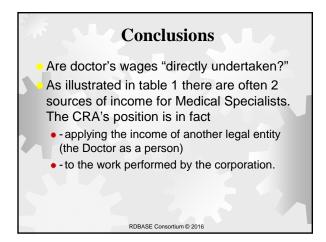


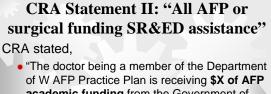




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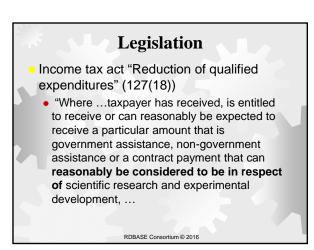


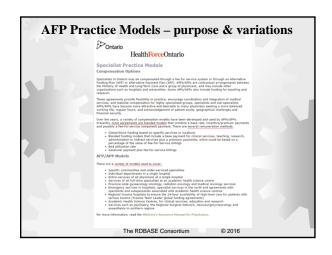


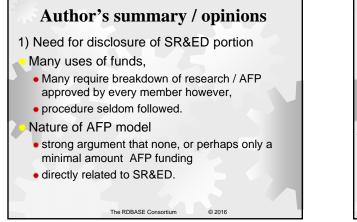
- of W AFP Practice Plan is receiving **\$X of AFP** academic funding from the Government of Ontario, as well as receiving **\$Y of surgical** repair funding.
- These amounts ... considered Government Assistance ... per subsection 127(18) of the ITA."

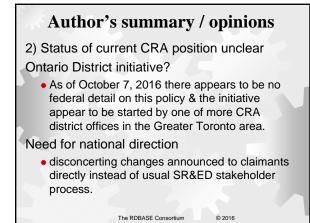
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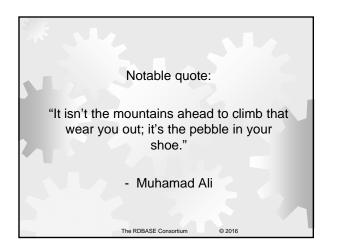


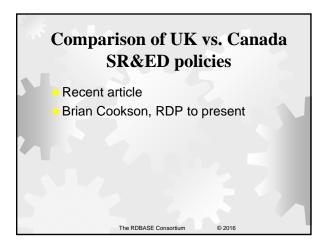




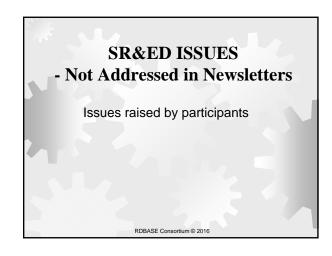


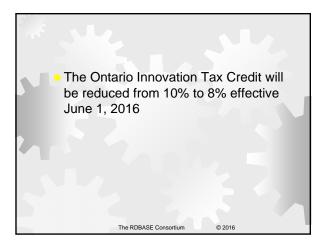


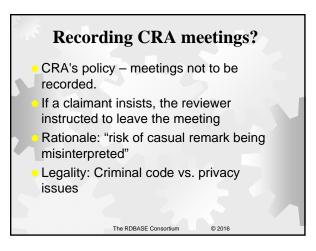


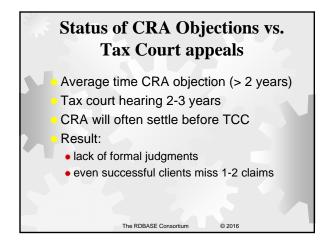


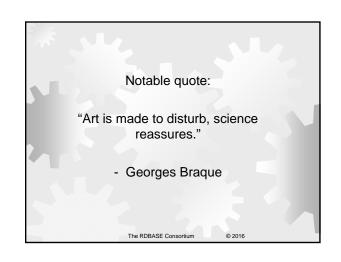












CRA Red Book statistics – year ended Mar. 31, 2015										
SR&ED claim intake	Year end Mar	31, 2015	Year end N	lar 31, 2014	Varia	nce				
Office	<u>Claims</u>	ITC's	<u>Claims</u>	ITC's	<u>Claims</u>	ITC's				
National	23,137 \$	3,856,342	25312 \$	4,361,819	-8.6%	-11.6%				
Hamilton	3085 \$	381,022	3492 \$	571,217	-11.7%	-33.3%				
Toronto	3854 \$	607.852	4115 S	701,446	-6.3%	-13.3%				
Toronto West	1329 \$	260,569		287.765						
Ontario	8268 \$	1,249,443	8961 \$	1,560,428						
Montreal	3379 \$	790,398	3648 \$	795,622	-7.4%	-0.7%				
	The RD	BASE Conso	rtium	© 2016						



