Docket: 2014-1594(IT)I

BETWEEN:

R&D PRO-INNOVATION INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on March 19, 2015, at Montréal, Quebec.

Before: The Honourable Rommel G. Masse, Deputy Judge

Appearances:

Agent for the appellant: Denis Remon

Counsel for the respondent: Gabriel Girouard

JUDGMENT

The appeal from the assessments made under the *Income Tax Act* for the taxation years ending August 31, 2009, and August 31, 2010, respectively, is dismissed in accordance with the attached Reasons for Judgment.

Signed at Kingston, Ontario, this 23rd day of July 2015.

"Rommel G. Masse"

Masse D.J.

Translation certified true
on this 9th day of September 2015

Daniela Guglietta, Translator

Citation: 2015 TCC 186
Date: 20150723
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REASONS FOR JUDGMENT

Masse D.J.

[1] The issue in this matter is whether the Minister of National Revenue (the Minister) was justified in disallowing the amounts claimed by appellant as expenditures for scientific research and experimental development (SR&ED) allowable for the calculation of the investment tax credit (ITC) for the taxation years ending August 31, 2009, and August 31, 2010.

Factual background

[2] The appellant is a Canadian-controlled private corporation within the meaning of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), as amended (the Act). Denis Remon was its president and sole shareholder.

[3] For the taxation years ending August 31, 2009, and August 31, 2010 (the years in issue), the appellant submitted SR&ED projects. It was essentially a single project that continued over both years.

[4] The appellant submits that expenditures totalling $10,974 for 2009, and $17,204 for the 2010 taxation year are allowable expenditures for SR&ED activities entitling it to an ITC of $3,841 for 2009 and $6,021 for 2010.

[5] On October 18, 2010, the Minister assessed the appellant for the 2009 taxation year by disallowing the amount of $10,974 claimed as allowable SR&ED expenditures, and the amount of $3,841 claimed as an ITC. The Minister granted the appellant the amount of $9,720 as business expenses instead of allowable SR&ED expenditures for the calculation of the ITC and $25 as an additional capital cost allowance.

[6] On July 21, 2011, the Minister assessed the appellant for the 2010 taxation year disallowing the amount of $17,204, claimed as allowable SR&ED expenditures, and that of $6,021 claimed as an ITC. The Minister granted the appellant the amount of $15,308 as business expenses instead of allowable SR&ED expenditures for the calculation of the ITC.

[7] The Minister was of the view that the project undertaken by the appellant did not meet the definition of SR&ED within the meaning of subsection 248(1) of the Act.

[8] On January 22, 2014, the Minister confirmed the Notices of Assessment respecting the taxation years—hence this appeal.

[9] Denis Remon, president and shareholder of the appellant, described the project to us. The project's title was [TRANSLATION] "**Development of a chocolate spread made from cocoa butter and milk protein.**" The project was aimed at developing a chocolate spread with cream and maple syrup, cold-tempered, without artificial ingredients or added preservatives. The project is described as follows in Exhibits A-1 and A-2:

> [TRANSLATION]
>
> PROJECT TITLE: Development of a chocolate spread made from cocoa butter and milk protein.
>
> TECHNOLOGICAL ADVANCEMENT SOUGHT:
>
> (a) obtain a pure cocoa butter spread with 35% cream and maple syrup that has a minimum shelf life of three months at room temperature without vacuum processing;
>
> (b) obtain the chemical structure of chocolate required, taking into account that it is a polymorphic fat, and considering the additions of 35% cream and maple syrup to the base product;

(c) develop a cold-tempering process that stabilizes the colour and texture of the spread.

INITIAL TECHNOLOGICAL UNCERTAINTIES:

(a) the first technological obstacle deals with the minimum shelf life of three months without artificial additives;

(b) the second technological obstacle involves the tempering (crystallization) of the chocolate. When cream and maple syrup are present the crystallization changes and the beta crystals become unstable, based on the proportions of the 35% cream and the maple syrup, their melting temperature, cooling time and incorporation into the chocolate;

(c) the third technological obstacle is connected to the previous one. Since the mixture is obtained through various temperatures, they were unable to stabilize the product. Indeed, on the first day, the texture is smooth and silky but it changes over time. Thus, on the second day or second week, the spread's colour tends to become darker, its texture thicker and its taste stronger. We were unable to resolve this issue through our various experiments.

SYSTEMATIC APPROACH:

May 2009: Observe the reactions of animal and vegetable proteins in water and milk solutions to determine their homogenization and long-terms effects;

June 2009: Experiments to lower the a_w of spreads. Heat the main ingredients (35% cream, maple syrup and milk powder) between 100^oC and 110^oC to evaporate free water and lower the a_w to obtain longer shelf life;

Prepare proportional chocolate spreads and add secondary ingredients, such as proteins;

Analyze reactions when glucose or invert sugar is added to the spread to bind free water. Invert sugar has interesting gustatory and preservation properties;

July 2009: Begin experiments with various milk proteins. Experiment with 5g of carbohydrates, 3g of proteins and 1g of fat;

Experiment with four preservatives in the chocolate spread, allow to sit for a few weeks to determine their ability to preserve the food;

Replace the 35% cream with 15%, 10% cream and 2% milk to reduce the amount of fat and increase the amount of proteins;

Conduct research on the various types of bacteria that developed in the jars. Understand how the bacteria developed to eliminate ways for it to develop;

Find a way to temper more quickly, mainly cold tempering, that is to say, 18 to 20 degrees C contrary to the current practice of 28to 31 degrees C;

Experiment with decreasing the pH and determine the effects on the development of the spread;

Conduct experiments with sugar as the ingredient binding free water;

Draft logical conclusions.

November 2009: Development of a research protocol and implementation of the first experiments.

December 2009: Various experiments: dissolving milk proteins in 35% cream at variable temperature. Experiments with suppressing air bubbles during the crystallization process. Development of a cold-tempering process and observation of the fluidity behaviour. Decrease a_w by using trimoline. Development of a tempering process by rotary mechanical motion at variable speed.

January 2010: Longitudinal observation of jars of spread and the development of temporal observational parameters. Crystallization processes using velocity, time and temperature parameters where R(results) = V(velocity) x T(time) x C(Celsius).

February 2010: Ongoing experiments with procedures to control crystallization. Also ongoing experiments regarding interactions between 35% cream (living matter), maple syrup and certain regulated inputs characterized for the naturalness of the product (trimoline, milk proteins). Comparison of the various crystallization and input incorporation processes. Development of comparison tables.

March 2010: Observation of the behaviour of the various processes on the jarred product and analysis of the preliminary results. Initial

	findings on bacterial development. Experiments with natural preservation agents and observation of the development of crystallization, texture, colour and taste. Analysis of the new inputs on the process and the jarred product.
April 2010:	Process for decreasing the a_w by varying of ingredients intrinsic to the product (sugar, glucose, salt).
May 2010:	Incorporation of inputs (xanthan gum, guar gum, vegetable oil) and analysis of the behaviour of the spread on marble and in jars. Initial experiments using a spread without 35% cream.
June 2010:	Observation and analysis of the jarred spread. Other technological obstacles from air bubbles and the migration of oil.

[10] Mr. Remon gave a presentation on chocolate spreads. There are commercial spreads such as Nutella, specialty spreads and pure cocoa butter spreads. Commercial spreads have a liquid (oil) base to which various powders, i.e., cocoa, etc., are added to obtain the desired texture. Specialty spreads have a solid—chocolate—as a base and other ingredients are added to soften it and obtain the desired texture. These commercial and specialty spreads are prepared and jarred while hot without tempering. While cooling, the jars are sealed and can be stored for several months free of mold.

[11] The appellant's spread project is completely different. It starts with pure cocoa butter chocolate, hence a solid. Then, 35% cream and maple syrup is added. A [TRANSLATION] "*natural*" product is desired so that no artificial ingredients are added. Unlike speciality spreads that are not tempered, the appellant's spread is tempered: it is cold-tempered. Mr. Remon explained that tempering, or crystallization, is crucial and extremely difficult. Tempering changes the colour, the texture and the taste of the spread, and therefore, is extremely important. Untempered, the crystallization of the chocolate is unstable; it has an unpleasant taste, a dull colour, and there is migration of fat and sugar. It is therefore not very appetizing. Mr. Remon stated that the technological advancements and uncertainties involved cold-tempering. Mr. Remon told us that the standard crystallization curves for chocolate are well known, but unknown when ingredients such as cream and maple syrup are added. The texture, the taste the colour are closely related to the molecular structure, including crystallization, of the chocolate. The various instabilities of the product therefore become technological uncertainties as there is no knowledge either in the industry or in the literature.

Mr. Remon's hypothesis is that cold-tempering is necessary to avoid these problems.

[12] Mr. Remon submits that it is a technological advancement that differs from standard practice. Indeed, in standard practice, the ingredients are heated and the product is jarred and then the jar is cooled. The new process is to use cold-tempering to develop a product that is completely different from commercial spreads. According to Mr. Remon, the taste, colour and texture of a cold-tempered spread is superior to all other spreads.

[13] All commercial spreads are jarred while hot. There are no cold-tempered spreads. Mr. Remon has inquired with experts in the chocolate and dairy products industry and, according to him, cold-tempering is not standard practice. Cold-tempering per se is known, but the technological problem is encountered when other foods or ingredients are added. This is where the tempering problem lies, i.e., the problem of stability. To date, no one in the chocolate industry has been able to resolve this issue of technological uncertainty. According to Mr. Remon, the development of a pure cocoa butter spread that is cold-tempered and jarred while cold is so complex that there is none on the market.

[14] As for systematic approaches, Mr. Remon provided all the documents to describe the work carried out by the appellant and the results of all tests performed. The data was presented in the form of graphs, tables and written notes. The data is extensive (see Exhibits A-6, A-7, A-8 and I-1, at tabs 8 and 9). According to Mr. Remon, all measurements were taken incrementally to be as systematic as possible, leaving nothing to chance. The exhibits indicate how the work and the data were organized and how the work was performed and how the data was collected. The data can be used, at a very conceptual and rudimentary stage, to formulate an algorithm for scaling up commercial production (see Exhibit A-9).

[15] On cross-examination, Mr. Remon stated that his experiments consisted in changing the ingredients or temperature and observing the effect of cold-tempering on the spread. The change in tempering modalities—velocity, temperature and time—on the product was also examined. The project's protocol was to [TRANSLATION] "[v]erify the influence of the proteins on the shelf life" (see Exhibit A-2, at page 11).

[16] Mr. Remon told us that cold-tempering is standard practice, but that stabilization of cold-tempering with new inputs in the chocolate does not exist. The ingredient that creates the difficulty is cocoa butter, which is a polymorphic

substance with [TRANSLATION] "bizarre" behaviour. It manifests itself in different ways depending on the ingredients. If the chocolate is melted and water is added, there is granulation. If the maple syrup is placed directly into the melted chocolate, the mixture is not homogenous. However, the cream blends well with the chocolate. The maple syrup could be mixed with the chocolate if another product is added, for example cream, which would act as a means of incorporating the maple syrup into the chocolate. It is a technological difficulty that is yet to be resolved to date.

[17] Raynald Marcoux is a research and technology advisor for the Canada Revenue Agency. He is the one who assessed the appellant's SR&ED project. He explained to us that for a research project to be eligible under the SR&ED program, a systematic approach is required; there must be a protocol that contains hypotheses. It is then necessary to conduct tests, obtain results, and analyze the results to then ultimately reach conclusions that confirm the hypothesis or create new hypotheses that will be tested.

[18] Mr. Marcoux indicates in his reports of April 30, 2010, and April 13, 2011 (see Exhibit I-1, at Tabs 13 and 14), that the activities described were performed unsystematically. According to him, there was a mere variation in the concentrations of the ingredients chosen and in the processes, but without raising or addressing specific technological uncertainties. This was done by trial and error by substituting raw material or by changing their concentration. The results of those tests were observed and conclusions were drawn; they did not contribute to any scientific or technological advancement in the food sector beyond the scope of standard practice. Mr. Marcoux concluded that the activities were not performed in accordance with a research protocol meeting the criteria of the scientific method which includes the following stages:

(a) the observation of the subject matter of the problem;

(b) the formulation of a clear objective;

(c) the identification and articulation of the scientific or technological uncertainty;

(d) the formulation of one or more hypotheses designed to reduce or eliminate the uncertainty;

(e) the methodical and systematic testing of the hypotheses by experiment or analysis;

(f) the statement of logical conclusions.

[19] Mr. Marcoux concluded that the project is not consistent with the definition of SR&ED as defined in subsection 248(1) of the Act. The project does not comply with the requirements of the SR&ED program. The activities are excluded pursuant to paragraph 248(1)(*f*), which excludes quality control or routine testing of materials, devices, products or processes, and paragraph 248(1)(*k*), which excludes routine data collection.

Appellant's position

[20] The appellant submits that its SR&ED project meets all the program's criteria. There is technological uncertainty that it encountered and technological advancement sought. The appellant submits that it demonstrates a systematic approach that requires hypotheses, a series of experiments and results or data that are analyzed to draw logical conclusions. The technological difficulty is such that there is no similar product on the market today.

[21] The appellant therefore asks the Court to allow the appeal, vacate the reassessments and refer the matter back to the Minister for reconsideration and reassessment.

Respondent's position

[22] The respondent submits that the project undertaken by the appellant is not eligible as SR&ED based on the criteria set out in the definition of that expression in subsection 248(1) of the Act. The respondent submits that the project does not present any technological advancement or technological uncertainty. The respondent submits that the appellant proceeded by trial and error by varying the concentrations of the ingredients chosen or the processes without raising technological uncertainty. The respondent further submits that the work performed by the appellant is "quality control or routine testing of materials, devices, products or processes" pursuant to paragraph 248(1)(*f*), or "routine data collection" pursuant to paragraph 248(1)*k*) of the Act. It was not systematic scientific research. It was simply trying to find a recipe.

[23] Accordingly, the project does not meet the SR&ED criteria set out in subsection 248(1) of the Act and the expenditures related to the project are not allowable as ITCs under section 127 of the Act.

[24] The respondent therefore asks that the appeal be dismissed.

Provisions

[25] The relevant provisions of the Act are as follows:

> **248 (1) Definitions** — In this Act,
>
> "**scientific research and experimental development**" means systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis and that is:
>
> (*a*) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view,
>
> (*b*) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, or
>
> (*c*) experimental development, namely, work undertaken for the purpose of achieving technological advancement for the purpose of creating new, or improving existing, materials, devices, products or processes, including incremental improvements thereto,
>
> and, in applying this definition in respect of a taxpayer, includes
>
> (*d*) work undertaken by or on behalf of the taxpayer with respect to engineering, design, operations research, mathematical analysis, computer programming, data collection, testing or psychological research, where the work is commensurate with the needs, and directly in support, of work described in paragraph (*a*), (*b*), or (*c*) that is undertaken in Canada by or on behalf of the taxpayer,
>
> but does not include work with respect to
>
> (*e*) market research or sales promotion,
>
> (*f*) quality control or routine testing of materials, devices, products or processes,
>
> (*g*) research in the social sciences or the humanities,
>
> (*h*) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas,
>
> (*i*) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,
>
> (*j*) style changes, or
>
> (*k*) routine data collection;

Analysis

[26] The only issue before the Court is whether the work performed by the appellant constitutes SR&ED activities within the meaning of subsection 248(1) of the Act.

[27] In *Northwest Hydraulic Consultants Limited v. The Queen*, 98 DTC 1839, [1998] 3 CTC 2520, [1998] TCJ No. 340 (QL), Judge Bowman (as he then was) set out five criteria for determining whether a given activity constitutes a SR&ED activity. The criteria were approved by the Federal Court of Appeal in *RIS-Christie v. The Queen*, 99 DTC 5087, [1998] FCJ No. 1890 (QL), and in *C.W. Agencies Inc. v. The Queen*, 2001 FCA 393, 2002 DTC 6740, [2001] FCJ No. 1886 (QL). Judge Bowman set out the following approach at paragraph 16 of his judgment:

> 1. Is there a technical risk or uncertainty?
>
> > (a) Implicit in the term "technical risk or uncertainty" in this context is the requirement that it be a type of uncertainty that cannot be removed by routine engineering or standard procedures. I am not talking about the fact that whenever a problem is identified there may be some doubt concerning the way in which it will be solved. If the resolution of the problem is reasonably predictable using standard procedure or routine engineering there is no technological uncertainty as used in this context.
> >
> > What is "routine engineering"? It is this question, (as well as that relating to technological advancement) that appears to have divided the experts more than any other. Briefly it describes techniques, procedures and data that are generally accessible to competent professionals in the field.
>
> 2. Did the person claiming to be doing SRED formulate hypotheses specifically aimed at reducing or eliminating that technological uncertainty? This involves a five stage process:
>
> > (a) the observation of the subject matter of the problem;
> >
> > (b) the formulation of a clear objective;
> >
> > (c) the identification and articulation of the technological uncertainty;
> >
> > (d) the formulation of an hypothesis or hypotheses designed to reduce or eliminate the uncertainty;
> >
> > (e) the methodical and systematic testing of the hypotheses.
>
> It is important to recognize that although a technological uncertainty must be identified at the outset an integral part of SRED is the identification of new

technological uncertainties as the research progresses and the use of the scientific method, including intuition, creativity and sometimes genius in uncovering, recognizing and resolving the new uncertainties.

3. Did the procedures adopted accord with established and objective principles of scientific method, characterized by trained and systematic observation, measurement and experiment, and the formulation, testing and modification of hypotheses?

> (a) It is important to recognize that although the above methodology describes the essential aspects of SRED, intuitive creativity and even genius may play a crucial role in the process for the purposes of the definition of SRED. These elements must however operate within the total discipline of the scientific method.
>
> (b) What may appear routine and obvious after the event may not have been before the work was undertaken. What distinguishes routine activity from the methods required by the definition of SRED in section 2900 of the Regulations is not solely the adherence to systematic routines, but the adoption of the entire scientific method described above, with a view to removing a technological uncertainty through the formulation and testing of innovative and untested hypotheses.

4. Did the process result in a technological advance, that is to say an advancement in the general understanding?

> (a) By general I mean something that is known to, or, at all events, available to persons knowledgeable in the field. I am not referring to a piece of knowledge that may be known to someone somewhere. The scientific community is large, and publishes in many languages. A technological advance in Canada does not cease to be one merely because there is a theoretical possibility that a researcher in, say, China, may have made the same advance but his or her work is not generally known.
>
> (b) The rejection after testing of an hypothesis is nonetheless an advance in that it eliminates one hitherto untested hypothesis. Much scientific research involves doing just that. The fact that the initial objective is not achieved invalidates neither the hypothesis formed nor the methods used. On the contrary it is possible that the very failure reinforces the measure of the technological uncertainty.

5. Although the *Income Tax Act* and the Regulations do not say so explicitly, it seems self-evident that a detailed record of the hypotheses, tests and results be kept, and that it be kept as the work progresses.

[28] In *Tacto Neuro Sensory Devices Inc. v. The Queen*, 2004 TCC 341, 2004 DTC 2884, [2004] T.C.J. No. 328 (QL), Justice Bédard further explains what the taxpayer must show for expenditures to be considered to have been incurred for scientific research and experimental development activities. He explained as follows at paragraph 11:

> The appellant had the burden of showing, based on the balance of probabilities, that the expenditures it had incurred corresponded to scientific research and experimental development, and to do so, it had to show that there was a technological risk or uncertainty that could not be removed by routine engineering or standard procedures. If the resolution of the problem is reasonably predictable using standard procedure or routine engineering, there is no technological uncertainty. Thus all of the work done to resolve a problem using techniques, procedures, and data that are generally accessible to competent professionals in the field cannot, in my opinion, be scientific research and experimental development since there is no technological risk or uncertainty.

[29] In *Zeuter Development Corporation v. The Queen*, 2006 TCC 597, 2007 DTC 41, [2006] TCJ No. 466 (QL), Justice Little noted that when uncertainties can be removed by routine engineering or standard procedures, the project does not qualify for SR&ED. If competent professionals in the field can resolve these issues with predictability, there is no technological uncertainty (see paragraph 22). At paragraph 24, Justice Little stated that novelty or innovation in a product is not sufficient to illustrate technological advancement; rather, it is how these features arise that is important, that is whether or not they arise through the process of SR&ED.

[30] In *Sass Manufacturing Limited v. M.N.R.*, 88 DTC 1363, [1988] TCJ No. 409 (QL), Judge Sarchuk stated as follows at paragraph 48:

> . . . In my view Regulation 2900 requires an appellant to adduce cogent evidence of such investigation or search. Systematic investigation connotes the existence of controlled experiments and of highly accurate measurements and involves the testing of one's theories against empirical evidence. Scientific research must mean the enterprise of explaining and predicting and the gaining knowledge of whatever the subject matter of the hypothesis is. This surely would include repeatable experiments in which the steps, the various changes made and the results are carefully noted. . . .

[31] It goes without saying that the verification and presentation of information that is already known does not constitute an advancement in relation to the current body of scientific knowledge.

[32] In *Soneil International Limited v. The Queen*, 2011 TCC 391, 2011 DTC 1282, [2011] TCJ No. 302 (QL), Justice D'Arcy held that appellants must provide sufficient evidence to support a finding that they adopted procedures that accorded with established and objective principles of scientific measure. In particular, appellants must provide the Court with sufficient evidence to support a finding that their work was characterized by trained and systematic observation, measurement and experiment and the testing and modification of hypotheses (see paragraph 38).

[33] In *Jentel Manufacturing Ltd. v. Canada*, 2011 FCA 355, 2012 DTC 5031, [2011] FCJ No. 1840 (QL), the taxpayer was a company that developed and manufactured engineered thermoformed plastic products for consumer and industrial uses. In earlier years, it developed Multi-Bins, a small-parts storage system typically used in industrial and shop-floor settings. During its 2005 fiscal year, Jentel set out to overhaul its Multi-Bins concept. Jentel's objective was to improve its existing product by making a redesigned version that would be smaller and significantly lighter. The trial judge concluded that the work performed by Jentel did not constitute SRED, as defined in paragraph 248(1) of the Act. He was of the view that Jentel's work was centered on the use of existing manufacturing processes and existing materials in an attempt to improve its existing product. Its work involved routine engineering and standard procedures in an attempt to build a better product, while controlling manufacturing costs. There was no evidence that any of the work involved technological risk or uncertainty which could not be removed by routine engineering or standard procedures. The Federal Court of Appeal wholeheartedly agreed with the trial judge's conclusions.

[34] In the case at bar, it goes without saying that the appellant has the burden of showing, based on the balance of probabilities, that the work it performed corresponded to SR&ED. To that end, it has to show that there was a technological risk or uncertainty that could not be removed by routine engineering or standard procedures.

[35] The purpose of the project was to develop a pure cocoa butter spread with cream and maple syrup, with a 5-3-1 carbohydrate-protein-fat ratio, cold-tempered, demonstrating stable colour and texture and a shelf life of three months, without vacuum processing and artificial ingredients. The taste, texture and colour of the product had to be superior to the commercial spreads and the speciality spreads.

[36] There is no doubt that the development of the spread could pose a number of difficulties, which was certainly the case here. There were preservation difficulties.

Tempering or crystallization of the chocolate was unstable. The colour, texture and taste of the spread were also unstable and changed the day after it was jarred. Testing was required to try to find solutions to the problems.

[37] I am of the view that, in developing the spread, the appellant formulated hypotheses designed to reduce or eliminate the uncertainty. I accept that the appellant conducted extensive testing to try to find solutions to these difficulties. The documents submitted to the Court show this. The testing, in my opinion, was methodical and systematic.

[38] But the question is whether there was technological uncertainty. According to the case law, when uncertainties can be removed by standard procedures or routine engineering, the project does not qualify for SR&ED. Novelty or innovation in a product is not sufficient to illustrate technological advancement.

[39] In the case at bar, the appellant wanted to develop a spread superior to commercial spreads and specialty spreads. It used as ingredients food products that are well known, such as cocoa butter, maple syrup, cream and other dairy products, carbohydrates and proteins. It modified the ingredients or their proportions in developing the spread. It then used the cold-tempering process, which is a known process, by changing the velocity, time and temperature of the tempering. It observed the results and collected data. The appellant's work was centered on the use of existing manufacturing processes and existing materials in an attempt to improve its spread. The work involved routine engineering and standard procedures. Having considered all the evidence and the case law, I am not persuaded that the work in issue involved technological risk or uncertainty that could not be removed by standard procedures or routine engineering.

[40] In this case, while the experimental program was methodical and systematic, the appellant did not persuade me that this project met the SR&ED criteria within the meaning of subsection 248(1) of the Act.

Conclusion

[41] For these reasons, the appeal is dismissed.

Signed at Kingston, Ontario, this 23rd day of July 2015.

"Rommel G. Masse"

Masse D.J.

Translation certified true
on this 9th day of September 2015

Daniela Guglietta, Translator

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STYLE OF CAUSE :	R&D PRO-INNOVATION INC. v. HMQ
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REASONS FOR JUDGMENT BY:	The Honourable Rommel G. Masse, Deputy Judge
DATE OF JUDGMENT:	July 23, 2015

APPEARANCES:

Agent for the appellant:	Denis Remon
Counsel for the respondent:	Gabriel Girouard

COUNSEL OF RECORD:

For the appellant:

Name:	
Firm:	

For the respondent:	William F. Pentney Deputy Attorney General of Canada Ottawa, Canada