

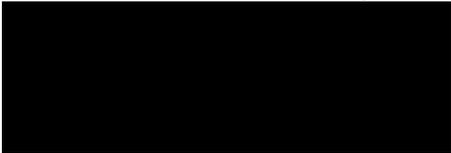


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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: EAC 00 139 52859 Office: Vermont Service Center Date: 08 FEB 2002

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:
[Redacted]

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in business. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability in his field of endeavor.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2).

An alien, or any person on behalf of the alien, may file for classification under section 203(b)(1)(A) of the Act as an alien of extraordinary ability in science, the arts, education, business, or athletics. Neither an offer of employment nor a labor certification is required for this classification.

The specific requirements for supporting documents to establish that an alien has achieved sustained national or international acclaim are set forth in the Service regulations at 8 C.F.R. 204.5(h)(3). The relevant criteria will be discussed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

The petitioner describes his area of expertise:

I have developed a world wide reputation in the field of Closed Circuit Television (CCTV) and I am recognized as an expert in this field and my contribution in the area of training and education in the security industry is helping hundreds of thousands of people develop skills and a knowledge base not only in the USA but all over the world.

The petitioner states that he created "an interactive multimedia based training program on CD ROM called STAM InSight," which is "a self-learning tool allowing the users to train themselves" at their convenience. The petitioner states that his creation is "a 'world first' and [it] created quite a stir in the industry."

The regulation at 8 C.F.R. 204.5(h)(3) presents ten criteria for establishing sustained national or international acclaim, and requires that an alien must meet at least three of those criteria unless the alien has received a major, internationally recognized award. Review of the evidence of record establishes that the petitioner has in fact met three of the necessary criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner won the Judges' Choice Award at the International Security Conference Expo West in 1997. This award was presented by the Security Industry Association ("SIA"), which appears from the record to be a major U.S. organization. The exposition was clearly international in nature; the petitioner himself had traveled from Australia to Las Vegas to participate. In context, this award appears to be nationally significant; it is mentioned in some of the press materials submitted with the petition. The petitioner's STAM InSight product also won an "award of merit" from Canadian Security magazine.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The petitioner asserts that his STAM InSight "received a lot of media coverage in many different trade magazines worldwide." An article from Security Systems News reports on the efforts of the SIA to develop a CCTV certification program. The article includes a quotation from the petitioner, who is identified as a member of the group working on the certification standards. The record, however, does not indicate that the petitioner as an individual has established a sustained pattern of media attention; many of the articles about STAM InSight do not identify the petitioner.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The petitioner submits letters to establish the significance of his STAM InSight software program. Ronald F. Spiller, executive director of the Security Industry Association, states:

The [Security Industry Association's] member companies include all of the major manufacturing companies in the USA, such as ADT, Honeywell, Sensormatic, Panasonic, etc., as well as a number of foreign companies which sell their products in the US. . . .

In the course of expanding and strengthening SIA's library of training aids, we have been working with [the petitioner].

[The petitioner] has developed a complete CCTV training course entitled "STAM-Insight." This distance learning tool is the most comprehensive and penetrating course on CCTV installation, servicing and operations that exists in the entire security field. At the International Security Conference & Exhibition held in Las Vegas in 1999, STAM-Insight . . . was a clear winner of SIA's New Products Showcase awards.

It is apparent that [the petitioner] is far ahead of his counterparts in creating multimedia distance-learning tools for the security industry. For this reason, the Security Industry Association has entered into an agreement to market STAM-Insight, and in addition, ha[s] commissioned [the petitioner] to translate his CD-Rom version into a format that can be presented on the Internet.

[REDACTED] executive director of the Latin American Security Association, states that the petitioner's "contribution to the world wide security industry has had a tremendous impact and acceptance amongst his peers."

[REDACTED] publisher of Security Sales magazine and chairman of SIA's Education Committee, states that STAM InSight "is an invaluable addition to the security industry," and the petitioner is "an important information resource for our publication as well as the entire industry." Laura E. Stepanek, senior editor of Security Distributing & Marketing, states that the petitioner's training product "is an important product in our marketplace" and that considerable demand exists for well-trained workers in the security industry. John Adams, publisher of the trade magazine Security Electronics, states that the petitioner holds a "pivotal position in the world-leading US security market" and that the petitioner's "training programs were a major success in Australia."

The petitioner submits additional letters from several institutions where he had conducted training sessions, including manufacturers

of CCTV equipment such as Sensormatic. Philips Communication and Security Systems, a division of the same major corporation that also owns Magnavox, has endorsed STAM InSight for its own training activities. [REDACTED] president of Panasonic Security and Digital Imaging Co., states that the petitioner's program is "impressive" and "will go a very long way in helping improve the skills and knowledge of everyone involved in the CCTV industry including installers and sales people." Several trade magazines support the petitioner's assertion that his training program is the first to be offered in a multimedia CD-ROM format.

Given the industry's well-documented international reaction to the petitioner's development of STAM InSight, we conclude that the petitioner has established original contributions of major significance.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner has written technical articles for a variety of trade publications issued in North America, Asia, Europe and Africa. Some of these articles are derived from the petitioner's instructional materials. The record also indicates that the petitioner has further disseminated his work at conferences and seminars. Because publication of such articles does not appear to be a routine duty in the security technology industry, it is significant that the petitioner has published such a substantial body of work around the world. The publishers of many of these magazines have praised the petitioner as a leader in his field.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

David A. Smith, vice president of Marketing for Pelco and chairman of SIA's Education Subcommittee for CCTV Certification, states:

[The petitioner] is recognized in our industry as a leading technical expert as well as educator in this field. For this reason, the subcommittee has appointed him as the head of the panel of subject matter experts for this program. His contributions to this effort have already been significant.

SIA documentation confirms the petitioner's activity on the above subcommittee. We conclude that the petitioner's participation in efforts to develop certification standards amounts to a critical role for the SIA, which appears to be a major national organization.

The director instructed the petitioner to submit further documentation to establish eligibility. In response, the

petitioner submitted copies of previously submitted documents, with a letter attempting to explain the significance of this evidence.

The director denied the petition, acknowledging some of the evidence presented but concluding that the record overall does not establish sustained national or international acclaim. On appeal, the petitioner disputes various specific findings by the director. For example, the petitioner contends that the Judges' Choice Award from the SIA "is the most prestigious award in the security industry." The new evidence which the petitioner submits to support this claim - a document outlining the judging process including the selection of judges - does not support this particular claim, but the record nevertheless supports the conclusion that the award is significant at the national, and perhaps international level.

The petitioner claims to have satisfied a further criterion:

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner, however, does not explain how he has purportedly satisfied this criterion. While he has participated in a committee to establish certification standards, this committee work does not appear to have involved judging the work of others.

Nevertheless, as explained above, the petitioner has adequately demonstrated that he satisfies at least three of the regulatory criteria at 8 C.F.R. 204.5(h)(3). The petitioner has shown that he has an international reputation as a leader and innovator in his field, and that he is respected throughout the industry; his recognition is not limited to his business associates and others who have had close ties with him.

In review, while not all of the petitioner's evidence carries the weight imputed to it by the petitioner, the petitioner has established that he has been recognized as an alien of extraordinary ability who has achieved sustained international acclaim and whose achievements have been recognized in his field of expertise. The petitioner has established that he seeks to continue working in the same field in the United States. Therefore, the petitioner has established eligibility for the benefits sought under section 203 of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has sustained that burden.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.