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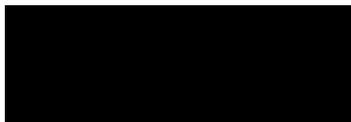
U.S. Department of Homeland Security

Citizenship and Immigration Services

**B2**

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536



NOV 24 2003

File: WAC 02 176 51580 Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Petitioner:  
Beneficiary:



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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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 Citizenship and Immigration Services (CIS) 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*   
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 the sciences. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the pertinent regulations at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

The petitioner, using the third person, describes himself as "one of China's foremost scientific inventors. He is currently chief scientist and senior engineer of the Hong Kong International Hightech Investment Development Center."

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify

as an alien of extraordinary ability. The petitioner has submitted evidence which, he claims, meets the following 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 claims several awards, including Gold Awards and Outstanding Scientific Technological Achievement awards, from the First Hong Kong International New Product and New Tech Fair and other entities. The petitioner claims that all of these awards are international. The petitioner also claims a fourth-class prize from the Shanghai Outstanding Inventions Competition, which is a local award, and an International Medical Achievement Prize from Hong Kong International Medical Science Academy.

A certificate from the Hong Kong International New Product and New Tech Fair states:

After evaluation, your patent technology, "A light adjust method of electrical ballast" is awarded Outstanding Scientific and Technological Achievement of First Hong Kong International New Product and New Tech Fair, and you are employed as the first chair scientist of Hong Kong International High Technology Investment Development Center.

The wording of the certificate seems to indicate that employment at the Center was a part of the award.

The petitioner has not established how many Gold Awards and Outstanding Scientific Technological Achievement Awards are presented each year. Some certificates are dated September 2000, others October 2000, indicating that the awards may be presented every month. The certificates are "form" letters with the petitioner's name and invention added to blank spaces. The record also fails to identify the scope of the pool from which winners are chosen. If all the candidates for a given award are Chinese, then the award is not international; if the candidates are from one particular area of China, then it is local rather than national.

One document, describing the 1996 Outstanding Inventions Competition of Shanghai, indicates that out of 341 entrants, 189 items (more than half) received awards; 19 of those awards, 10% of the total, were "outstanding prizes." We cannot place significant weight on an award from a competition in which the odds of winning a prize are better than the odds of not winning one. The record contains no further information about any of the other awards.

*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's name appears in various "Who's Who"-type directories, containing a very substantial number of capsule biographies. The petitioner has not submitted translations of the published materials themselves, as the regulation at 8 C.F.R. § 103.2(a)(3) requires, but the petitioner has submitted a letter

from a publisher, stating in part that the petitioner's "entry is formally published on Page 1305, Volume 6 of 'Who's Who in the World.'" With several entries on a page, a volume of at least 1,305 pages could include ten thousand such entries. If each volume is numbered individually (i.e. each volume starts on page 1 rather than continuing the pagination of the prior volume), then the total number of entries could be well over fifty thousand. As with the prizes, the letters regarding these publications are "form" letters containing no specific details about the petitioner's work, consistent with a very large number of persons profiled in each book.

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

The petitioner claims important innovations in the design of automobile windshield wipers, seats, doors, and lights. The petitioner also claims innovations that have made electrical appliances more energy efficient. The petitioner documents 20 patented inventions. A patent recognizes the originality of an invention, but not necessarily its significance. Given the many thousands of patents that are issued every year, it cannot suffice for the petitioner to establish that his work has been patented. Also, the petitioner's estimation of the importance of his own work is not evidence. The petitioner must produce credible third-party documentation to establish that his inventions are among the most important in their respective specialties.

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

The petitioner wrote two articles on the causes and suggested remedies for tailgating (following a vehicle too closely) in *Automobile Research & Development* and *Auto Information*, both published in 1999. The petitioner asserts that these periodicals are published by China's top automobile research facilities.

The director instructed the petitioner to submit additional evidence, stating that the initial submission did not establish sustained acclaim or extraordinary ability. In response, the petitioner has submitted copies of previously submitted documents and an explanatory letter that essentially repeats prior claims.

The director denied the petition, stating that the petitioner has failed to establish the significance of the evidence submitted or to demonstrate that the petitioner's "inventions are being utilized on a large scale." On appeal, the petitioner states that he has received the "highest awards for patent in the world" including awards from the Eureka World Invention Fair and the Geneva International Patent Technology Achievements Fair. Documentation of the Eureka award states "EUREKA is the brief for the organization of 'Europe Researching Coordinated Association.' It is an organization to unite all the related organizations from all the European Countries." The petitioner's only documentation of the claimed award, however, is a letter from an organization in Beijing, China. The record contains no documentation in any European language to confirm the petitioner's receipt of what is purported to be a European award.

Similarly, the only material concerning the petitioner's alleged receipt of an award from Geneva, Switzerland, is a letter from local officials in Beijing. A letter said to be from the London International Patent Technology Achievements Fair is written in Chinese as well. The letter is not signed, but rather stamped with oval and circular seals, identical in format to several previously submitted Chinese documents.

The petitioner claims, on appeal, to have satisfied an additional criterion:

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The petitioner states that his total income in 2001 was "3.15 times more than what an average employee makes in foreign joint-adventure [sic] company in China." The petitioner must show that his earnings are significantly high in relation to others in the field. It cannot suffice for the petitioner to compare his earnings to the broad and vague category of employees of foreign joint-venture companies. Such employees perform a broad range of functions, most of them unrelated to inventing automobile components. Furthermore, the structure of the company does not define the petitioner's field. An employee of a foreign joint-venture company, for example, would not be in a different "field" from someone who performs the same tasks at a company with a different ownership structure. The petitioner has not submitted evidence of high earnings in relation to other inventors of automobile parts. We also note that the petitioner cites statistics pertaining not to China as a whole, but to the Shanghai region.

The overall pattern of the record reflects submission of several documents, accompanied by unsupported claims that the prizes, publications, and so forth reflected in those documents are among the most important in China or the world. The little background information that accompanies this evidence fails to support, and at times contradicts, the petitioner's claims. While the petitioner has clearly been a prolific inventor, he has not substantiated his claims to have become one of the best known or most celebrated such inventors in China or the world.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor. Review of the record, however, does not establish that the petitioner has distinguished himself as an inventor to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.