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U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED]

Office: VERMONT SERVICE CENTER

Date: JUN 20 2005

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

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 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 that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

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

(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 into the United States will substantially benefit prospectively the United States.

The applicable regulation defines the statutory term "extraordinary ability" as "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). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.*

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences, specifically in the field of orthopaedic research. The record indicates that at the time of filing the petitioner was a postdoctoral fellow and research associate at the Center for Musculoskeletal Research within the Department of Orthopaedics at the University of Rochester, New York. The petitioner initially submitted supporting documents including his curriculum vitae, published articles and book chapters, evidence of the citation of his articles, evidence that he was a referee for a scientific journal in his field, a copy of the National TULES Award presented to the petitioner in Finland in 2001, evidence of his membership in professional associations, and eight recommendation letters from his supervisors and colleagues. The director noted the petitioner's accomplishments, but found that the evidence did not demonstrate the requisite sustained acclaim.

On appeal, the petitioner submits additional evidence including recommendation letters from two independent experts in his field, a second letter from his former supervisor at the University of Rochester, additional articles, a letter attesting to the significance of his Tules award, new evidence of his review of articles submitted to scientific journals, and additional information regarding his membership in professional associations. Much of the evidence submitted on appeal arose after the petition was filed and consequently cannot be considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). The remaining evidence submitted on appeal does not overcome the substantive reasons for denial and we affirm the director's decision. The evidence submitted, the petitioner's claims and the director's decision are addressed in the following discussion of the regulatory criteria relevant to this case.

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

The petitioner initially submitted a copy of a certificate entitled "National Tules Award." The certificate reads: "The Finnish Society for Musculoskeletal Diseases and Inflammation Research (TULES) has the pleasure to nominate [redacted] Ph.D., to National Musculoskeletal Research Award based on his excellent work in the field of total joint replacement and arthritis research. Biomedicum Helsinki, March 31, 2001." The certificate contains the seal of the University of Helsinki, TULES and is signed by [redacted] "Professor, [redacted] Chairman" and by [redacted] "Professor, [redacted] Vice-Chairman." The record indicates that these two professors supervised the petitioner's research when he was a doctoral student at the University of Helsinki from 1996 to 2000. The director found the certificate insufficient to meet this criterion because it states only that the petitioner has been nominated for, not actually received the award and because the record contained no documentation of the eligibility and selection criteria for the award.

On appeal, the petitioner submits a letter from Professor [redacted] Secretary of the Finnish Musculo-Skeletal Research Society. Professor [redacted] affirms that the petitioner won the TULES award and explains that "[t]his prize is a unique acknowledgement of excellent achievement of domestic or foreign scientists working in the musculoskeletal research field in Finland . . . [and] is the most respected and most important award in this specific field in Finland." Professor [redacted] explains that approximately ten "exceptionally qualified finalists are proposed nationwide" and that "a panel of leading Finnish scientists in Orthopaedics and Rheumatology fields select the prize winner, who must demonstrate extraordinary success in Orthopaedics and Rheumatology research according to international standards." This letter sufficiently establishes that the TULES award is a lesser nationally recognized prize for excellence in the petitioner's field in Finland. However, the record indicates that the petitioner has been working in this field for nearly 20 years. The receipt of one nationally recognized award over the course of an almost two-decade long career does not reflect the sustained acclaim requisite to classification as an alien with extraordinary ability. Accordingly, the petitioner does not meet this criterion.

(ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The director correctly determined that the petitioner did not meet this criterion. The petitioner initially submitted an undated certificate stating that he is an associate member of the Orthopaedic Research Society (ORS) and a letter from the Secretary of the Finnish Society for Rheumatology stating that his application for

membership in that society was accepted on August 14, 2000. The record contains no evidence regarding the significance of the latter membership. On appeal, the petitioner submits a letter from [REDACTED] ORS Executive Director, stating that the society's membership requirements are attendance at one or more ORS annual meetings, presentation of a paper at an ORS annual meeting or publication of two peer reviewed papers in the field, two recommendation letters from current ORS members and payment of annual dues. Such accomplishments are generally expected of scientific researchers active in their fields and the record contains no evidence that the ORS membership requirements constitute outstanding achievements. Accordingly, the petitioner does not meet this criterion.

On appeal, the petitioner submitted evidence relating to his membership in the American Society for Bone and Mineral Research (ASBMR). A letter from [REDACTED] ASBMR Membership and Marketing Assistant, states that the petitioner became an ASBMR member in May, 2004. Because this membership arose over a year after his petition was filed, we cannot consider this evidence. The petitioner must establish eligibility at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49 (Comm. 1971).

(iii) Published material 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 record indicates that the petitioner's scholarly articles have been cited. The director correctly stated that mere citation of a scientist's work by other researchers is not sufficient evidence to satisfy this category. Citation to the work of other researchers is requisite to articles published in scientific journals. Hence, citation alone is not evidence that the citing article is about the scientist, as described in the regulation, without evidence that the citing articles feature or discuss the scientist's work more than in passing to establish a subsidiary point. In this case the petitioner has not submitted copies of the citing articles from which we could determine whether or not they feature or significantly discuss his work. The record contains no other evidence of published material about the petitioner in professional, major trade publications or other major media. Accordingly, the petitioner does not meet this criterion.

(iv) 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 director correctly found that the petitioner did not satisfy this category. The petitioner initially submitted excerpts from the "Index 2000" and the "Index 2001" of *Acta Orthopaedica Scandinavia* listing him as a referee. Both excerpts state that this journal "is the official publication of the Nordic Orthopedic Federation and the Netherlands Orthopedic Society." The record contains no evidence that *Acta Orthopaedica Scandinavia* is a well respected or highly regarded journal in the petitioner's field or any other evidence that selection as a referee for this journal reflects sustained national or international acclaim in orthopaedics. In fact, the evidence suggests otherwise. The excerpts alphabetically list the referees for the journal and the petitioner has only included the sections containing his name. Yet these pages alone include the petitioner with 117 other individuals on the excerpt from the "Index 2000" listing referees with last names from [REDACTED] to [REDACTED] and with 221 other individuals on the excerpt from the "Index 2001" listing referees with last names from [REDACTED] to [REDACTED]. Hence the documents do not suggest that selection as a referee for this journal is highly selective or otherwise indicative of national or international acclaim. Accordingly, the petitioner does not meet this criterion.

On appeal, the petitioner submits an excerpt from the December 2003 edition of *Clinical Orthopaedics and Related Research* that includes his name in a list of reviewers. The petitioner also submitted a letter from the journal's Editor-in-Chief requesting his review of a submitted article. The letter is dated April 29, 2003. These documents indicate that the petitioner did not serve as a reviewer for this journal until after his petition was filed. Consequently, we cannot consider this evidence. Again, the petitioner must establish his eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49.

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

The director correctly determined that the petitioner did not meet this criterion. The petitioner initially submitted evidence of his publications, the citation of his articles, and eight recommendation letters from his current and former supervisors and colleagues. On appeal, the petitioner submits a second letter from his supervisor at the University of Rochester and two letters from independent experts in his field. While recommendation letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim. Accordingly, we review the petitioner's recommendation letters as they relate to other evidence of his contributions.

Dean Professor of Orthopaedics, Associate Director of the Center for Musculoskeletal Research (Center) at the University of Rochester and the petitioner's supervisor, stated in his first letter dated January 15, 2003 that the petitioner "is currently working at my group as a post-doctoral fellow/research associate." Professor explains that the petitioner joined his laboratory less than a year from the date of his letter, but that in this "relatively short period, he has already made several notable contributions to our research programs." Professor claims that the petitioner "has more near [sic] 30 research publications in highly respected international medical journals . . . [and] has risen to the very top of his field." On appeal, the petitioner submits a second letter from Professor dated November 4, 2004 and stating that the petitioner's work at the Center "has resulted in several outstanding publications in high quality journals. His current work will have a great impact on the field of musculoskeletal research and transforming growth factor-beta signaling. This most recent work was selected for an oral presentation at the recent meeting of the American Society of Bone and Mineral Research [ASBMR] in Seattle Washington." Professor also states that the petitioner has "recently been listed as finalist [sic] for a prestigious research award of the Orthopaedic Research Society," but the record contains no corroborative evidence of this nomination. On appeal, the petitioner submitted evidence that he has published his recent research in three additional articles in scholarly journals. These publications and the petitioner's participation at the ASBMR conference occurred after the petition was filed and consequently cannot be considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved after the petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49. The record indicates that at the time of filing, none of the petitioner's research at the Center had been published.

The record also contains letters from three professors who supervised the petitioner's work as a doctoral student at the University of Helsinki. Professor, Chief Physician, Head of Research and a leader of the Musculoskeletal Sciences and Inflammation Research Group (TULES Group), praises the petitioner as

one of his two best research fellows. Professor [REDACTED] explains that while in Finland, the petitioner “was involved in the study of the mechanism of aseptic loosening of total hip replacement prostheses, the most severe complications affecting the US and world population.” Professor [REDACTED] also notes that the petitioner has published nearly 30 articles in highly respected medical journals. [REDACTED] Professor of Anatomy and Chairman of the Institute of Biomedicine, explains that the petitioner’s research “focused on the expression of extracellular matrix proteins in the interface tissue around loosened total hip replacement. . . . As far as I know, no other groups have done similar research as we did. . . . The results of Dr. [REDACTED] research will help us to prevent prosthesis loosening through several novel approaches.” Professor [REDACTED] states that the petitioner has published “more than 20 papers in peer-reviewing international journals” and concludes that the petitioner’s “pioneering and unique research has greatly contributed to our understanding of the mechanism of aseptic loosening of total hip replacement and continues to be of great international importance.” The petitioner’s third supervisor at the University of Helsinki, [REDACTED] Professor and Chairman of the Department of Orthopaedics and Traumatology, states that the petitioner “was a very successful visiting researcher in the Musculoskeletal Sciences and Inflammation Research Group at the University of Helsinki during 1996 to 2001.” Professor Santavirta explains that the petitioner “was a skilled researcher already when he arrived in Finland, and during his stay in Finland he acquired some unique and important techniques useful in top-level modern medical research. He presented an excellent PhD-thesis at the University of Helsinki, and close to 30 international research papers published in the leading medical research journals.” In sum, the petitioner’s former supervisors praise his skills and attest to the value of his work in Finland, but they do not identify any specific, original contributions of major significance that came from this research and that can be principally attributed to the petitioner.

The petitioner also submitted a letter from [REDACTED] Associate Professor at the University of Helsinki who states that she has known the petitioner since 1999. Professor [REDACTED] describes the petitioner as “an extraordinarily valuable scientist due to his unique combination of profound knowledge in clinical orthopaedic and excellent research skills” in medical and biomedical sciences. Professor [REDACTED] writes “on the basis of [REDACTED] significant contributions in the area of orthopaedic research,” but does not specifically identify those contributions. The record also contains a letter from [REDACTED] Associate Professor in the Department of Orthopaedics at Yamagata University in Japan, who states that he worked with the petitioner when he was a postgraduate researcher at the University of Helsinki. Professor [REDACTED] states that “[I]n Finland, [REDACTED] became an expert in molecular biology as well as in orthopaedics. His outstanding research accomplishments have been recognized internationally and set him apart from other researchers in his field. His thesis has been selected as a must-read for all orthopaedic residents in Finland.” Yet the record contains no corroborative evidence that the petitioner’s doctoral thesis has been so widely read.

Apart from his work in Finland, the petitioner submitted two letters attesting to his prior accomplishments in China and how they contribute to his current research. [REDACTED] Professor of Orthopaedics at the People’s Hospital of Peking University, states that the petitioner “was the chief surgeon, associate professor, and the head of the academic staff at Henan Province Hospital.” Professor [REDACTED] explains that this hospital is the largest in the highly populated province of Henan and that “[t]he huge number of patients helped [REDACTED] accumulate his clinical experience His profound knowledge in clinical orthopaedics in turn helps him to focus on the most important research fields, and the outcome of the research will definitely benefit all patients in orthopaedics and rheumatology.” Professor [REDACTED] praises the petitioner as “among the top scientists who have at the same time the solid clinical experience and outstanding skills in basic research.” The petitioner also submitted a letter purportedly from [REDACTED] Professor of Pediatric Surgery at Zhengzhou University, the former Henan Medical University where the petitioner obtained his medical degree, and Vice Chairman of

the Zhengzhou University Hospital. This letter is not signed by Professor Wen, but is affixed with the seal of Zhengzhou University Hospital. Professor [REDACTED] affirms that the petitioner was “enrolled to [sic] our university in 1979 as a genius student . . . [and] was always the best student in our medical school. Last year, [REDACTED] gave us an excellent lecture on orthopaedic research.” Professor [REDACTED] states that the petitioner “is a smart scientists [sic] and the most productive investigator, ranking top among the students graduating from our medical school. We are really proud of him. In addition to his nearly 30 publications in the leading English journals, [REDACTED] has many papers published in the most important Chinese journals.” Although Professor [REDACTED] and Professor [REDACTED] praise the petitioner as an accomplished medical doctor and researcher, they identify no specific scientific contributions of major significance made by the petitioner in China.

Finally, on appeal, the petitioner submitted two letters from independent experts in his field. [REDACTED] Professor and Chairman of the Department of Orthopaedic Surgery at the Boston University School of Medicine states that he was “asked to provide an advisory opinion” for this petition based “on observations of [the petitioner’s] performances during the past 3 years in the skeletal biology field during which time he has worked in the Center for Musculoskeletal Research at the University of Rochester.” Professor [REDACTED] explains that the petitioner has studied “the mechanisms by which the parathyroid hormone related peptide regulates the master gene regulator Runx2. This original work brought a singular insight into the process of cartilage preservation through inhibition of chondrocyte maturation. [REDACTED] also unraveled the signaling pathways that mediate prostaglandin hormonal effects that inhibit chondrocyte maturation preventing cartilage degradation.” Professor [REDACTED] also notes that the petitioner “is now determining the genetic networks involved in osteoarthritis in animal models lacking the key gene that mediates bone and cartilage morphogenesis. This will lead to eventual breakthroughs in development of new therapies for this devastating disease.” Although Professor [REDACTED] describes the petitioner as an “extraordinary scientist,” he bases his opinion largely on research completed by the petitioner after his petition was filed and thus cannot be fully considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved after the petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49.

Maurizio Pacifici, Professor and Associate Director of Research in the Department of Orthopaedic Surgery at the Thomas Jefferson University School of Medicine, states that “[t]hrough I have not had the opportunity yet to meet him personally, I think that [REDACTED] is a top scientist who has received well-deserved international recognition for his distinguished contributions to the Orthopaedics and Rheumatology fields.” Of the petitioner’s work in Finland, Professor [REDACTED] states that “[h]is pioneering work provides us important insights into mechanisms causing prosthesis loosening. The implications of his research are far-reaching and extremely important since novel therapeutic approaches can be developed based on these results.” Regarding the petitioner’s subsequent work at the University of Rochester, Professor [REDACTED] states that the petitioner “has demonstrated that among several prostaglandins, PGE2 is the most potent inhibitor of chondrocyte maturation” and that his “studies provide novel insights into the mechanism of chondrocyte differentiation and osteoarthritis.” Professor [REDACTED] also states that the petitioner’s current work has resulted in “important findings [that] greatly improve our understanding of normal and pathological cartilage formation, and have a direct application in Orthopaedics including but not restricted to osteoarthritis.” Yet Professor [REDACTED] comments on the petitioner’s work at the University of Rochester cannot be fully considered because, as previously explained, the record indicates that most of this research occurred after the petition was filed. Again, the petitioner must establish his eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49.

The record does not fully support the remaining claims made by the petitioner's recommenders. The petitioner submitted evidence that at the time of filing he had published a total of 30 articles in scholarly journals in his field, including four review articles. The petitioner has also written eight book chapters and is the lead author of five chapters. The petitioner is the lead author of only seven of his journal articles. In the letter accompanying his Form I-140, the petitioner explained that "in Finland, some principal investigators, even professors, can frequently be the first authors of the original articles although most work has been done by the second author. This is very uncommon in the United States. From my CV, you can see that there are several articles in which I am the second author. It's true that I have done most of work [sic] in these papers." The record shows that the petitioner is the second author of eight articles. Although the petitioner's claim regarding the publication custom in Finland may be true, the record contains no corroborative evidence of this purported fact. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner also lists nine articles published in Chinese medical journals, eight of which he is the lead author, yet he chose not to include evidence of these publications as stated on page three of his initial cover letter.

The petitioner provides evidence of the citation of only 16 of his English articles in the form of printouts from the ISI Web of Science website. The printouts state the number of times each article has been cited, but do not list the individual citations themselves and the record contains no other evidence that the citations were all made by independent research teams and do not include self-citations by the petitioner or his co-authors. Although these 16 articles have been cited a total of 55 times, the petitioner submits printouts for only two articles of which he is the lead author. One article, entitled "No Lymphokines in T-cells Around Loosened Hip Prostheses," has been cited twice. The other article, entitled "Increased Expression of EMMPRIN in the Tissue Around Loosened Hip Prostheses," has been cited only once. This minimal citation does not demonstrate that these articles document original scientific contributions of major significance in the petitioner's field.

The only other evidence relevant to this category is the petitioner's TULES award. As previously discussed under the first criterion, the record establishes that this award is a nationally recognized prize for excellence in the petitioner's field in Finland. Yet the award does not state the exact contributions that the petitioner has made to his field. Moreover, given the minimal citation of only two articles of which the petitioner is the lead author, this award alone is insufficient evidence that the petitioner has made original contributions of major significance to his field in a manner consistent with sustained national or international acclaim. Accordingly, the petitioner does not meet this criterion.

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

The director correctly determined that the petitioner did not meet this criterion. Frequent publication of research findings is inherent to success as an established scientist and does not necessarily indicate the sustained acclaim requisite to classification as an alien with extraordinary ability. Evidence of publications must be accompanied by documentation of consistent citation by independent experts or other proof that the alien's publications have had a significant impact in his field. As previously discussed under the fifth criterion, the petitioner in this case submitted evidence that at the time of filing he had published 30 articles in scholarly journals in his field, including four review articles. He is the lead author of only seven of these articles. The petitioner has also written eight book chapters and is the lead author of five of these chapters.

The petitioner submitted citation information for only 16 of his articles and only two articles of which he is the lead author. The latter two articles have been cited a combined total of only three times. As previously discussed, the record contains no documentation of the citing articles to demonstrate that the citations were all made by independent research teams and do not include self-citations by the author or his co-authors. In addition, the record contains no independent evidence such as the impact factors of the journals in which the petitioner has published that would indicate that the journals are highly regarded in his field. The record thus does not evidence a publication record that is consistent with sustained national or international acclaim in the petitioner's field. Accordingly, he does not meet this criterion.

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

The director noted that the petitioner had made meaningful contributions as a researcher, but she correctly determined that he did not meet this criterion. The record indicates that the petitioner was a professor of orthopaedics at the Henan Province Hospital in China. He then went to Finland where he obtained his doctoral degree from the University of Helsinki where he remained as a postdoctoral fellow for two years before coming to the United States as a postdoctoral fellow at the Center for Musculoskeletal Research at the University of Rochester.

The only evidence addressing the petitioner's role at the Henan Province Hospital in China is the letter of Professor Chuan-Han Feng that was previously discussed under the fifth criterion. Professor [REDACTED] states that the petitioner was "the chief surgeon, associate professor, and the head of the academic staff at Henan Province Hospital," but the record contains no corroborative evidence of the petitioner's role at the hospital or documentation that the hospital had a distinguished reputation at that time.

The petitioner's work at the University of Helsinki as described by the recommendation letters of his supervisors and colleagues was also discussed under the fifth criterion. Professor Konttinen praises the petitioner as one of the two best research fellows he has had, but does not indicate that the petitioner played a leading or critical role for his research group. Professor [REDACTED] also praises the petitioner's skills and research, but describes the petitioner's work at the University of Helsinki as having been decided and guided by his supervisors. Professor [REDACTED] similarly describes the petitioner as a "very successful visiting researcher," but focuses on the accomplishments and reputation of the Musculoskeletal Sciences and Inflammation Research Group and states only that the petitioner "was really an important member in the group." Professor [REDACTED] states that "[d]uring his stay [REDACTED] had made major contributions to our research" as evidenced by his contribution "to almost 20 original peer reviewed articles as a co-author and [that he] is the first author in some 10 additional original research articles." These letters combined with the petitioner's receipt of the TULES award indicate that the petitioner made significant and valuable contributions to his research group in Finland, but the evidence does not demonstrate that the petitioner played a leading or critical role for this group. The record also contains no independent evidence that the Musculoskeletal Sciences and Inflammation Research Group has a distinguished reputation.

The record also does not establish the petitioner's eligibility under this criterion by virtue of his role at the Center for Musculoskeletal Research (Center) at the University of Rochester. The record indicates that at the time of filing, the petitioner had been a postdoctoral fellow and research associate at the University of Rochester for less than one year. In his first letter, Professor [REDACTED] the petitioner's supervisor, states that the petitioner "plays a pivotal role" in some of his laboratory's research projects. Professor [REDACTED] explains that given the

petitioner's experience and technical expertise, "his departure would seriously jeopardize the successful completion of our ongoing research projects." In a subsequent letter submitted on appeal, Professor [REDACTED] states that the petitioner has become an "Instructor" and "independent investigator" at the Center and is "an essential member of our research group." Although some of the evidence submitted on appeal suggests that the petitioner has recently gained significant recognition for his research conducted at the Center, we cannot consider this evidence because it arose after the petition was filed. The petitioner must establish eligibility at the time of filing; a petition cannot be approved after the petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49. The record establishes that, at the time of filing, the petitioner was a postdoctoral fellow and research associate at the Center. The evidence indicates that although his work was highly valued, the focus and direction of his research was led not by the petitioner himself, but by his supervisor, Professor [REDACTED]. The record also contains no independent evidence that the Center has a distinguished reputation. Accordingly, the petitioner does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The evidence in this case indicates that the petitioner is an accomplished researcher in the field of orthopaedics, yet the record does not establish that at the time of filing he had achieved sustained national or international acclaim placing him at the very top of his field. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his 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.