

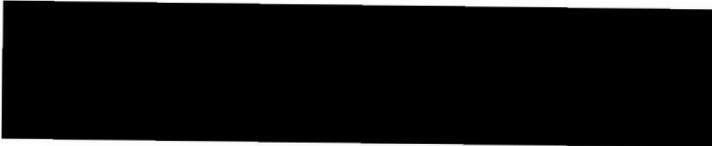
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U.S. Department of Homeland Security  
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U.S. Citizenship  
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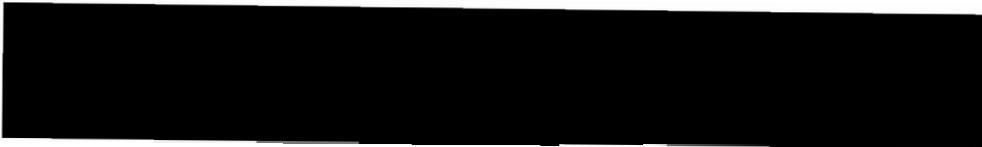
FILE: WAC 05 011 50189 Office: CALIFORNIA SERVICE CENTER Date:

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:



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, Chief  
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 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 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.

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria required 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.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (November 29, 1991). 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 regulation 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 earned sustained national or international acclaim at the very top level.

This petition, filed on October 15, 2004, seeks to classify the petitioner as an alien with extraordinary ability in the field of electronic engineering. At the time of filing, the petitioner was employed as a Professor in the School of Electrical and Electronic Engineering at Soonchunhyang University in Korea. The petitioner also

serves as Chief of the Radio Frequency and Microwave Component Research Center at Soonchunhyang University.

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. We find that the petitioner's evidence satisfies the following three criteria.

*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 submitted evidence showing that he served as an editorial board member for the Institute of Electronics Engineers Korea. The petitioner also submitted evidence showing that he provided peer review services for the Korean Society of Broadcast Engineers, *IEEE Transactions on Microwave Theory and Techniques*, and *IEEE Microwave and Wireless Components Letters*. We find that the preceding evidence is adequate to satisfy this criterion.

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

The director's May 16, 2005 request for evidence notice stated: "It appears that the beneficiary has met this category." However, in the December 14, 2005 notice of decision denying the petition, the director concluded: "This criterion has not been met." The director's request for evidence did not afford the petitioner the opportunity to respond to deficiencies in the evidence as they relate to this criterion. Nevertheless, we find that the record adequately demonstrates the petitioner's invention of Defected Ground Structure technology qualifies as a contribution of major significance in his field. The petitioner submitted several letters of support discussing this technology and his achievements in the microwave circuit engineering field.

 Professor of Electrical Engineering at University of California, Los Angeles, states:

[The petitioner] has published more than hundred [sic] papers in international journals and conferences. Especially, [the petitioner] has developed a number of unique and interesting microwave and wireless circuit structures. In particular he is the pioneer of a special circuit component call (Defected Ground Structure). This structure has an enormous capability to reduce the circuit size considerably. For instance, the DGS can be used for realization of a bandstop filter that has a small fraction of the physical size of the periodic PBG (Photonic Band Gap) based filter. [The petitioner] has already established modeling this structure for several practical applications and has proven their usefulness in number of applications such as passive components including filters and antennas as well as active components including amplifiers and oscillators. The results of his idea are widely recognized in the microwave and wireless community and are followed by a large number of researchers worldwide.

[REDACTED], Professor of Electrical Engineering, Polytechnique Montreal, Canada, states:

I knew [the petitioner] . . . from his invention of the so-called Defected Ground Structures (DGSs), as I had read several of his excellent papers on this topic. DGSs are planar structures including patterned slots in the metallic plane, called the ground plane, located below the substrate supporting conventional circuitry and interacting in a subtle manner with this circuitry for various purposes. This invention has paved the road for a new generation of microwave components with extremely useful miniaturization and filtering properties. In addition to introducing the genius idea of enhancing microwave circuits by judiciously patterning their ground plane, [the petitioner] has established a full theory with appropriate modellization [sic] tools for the practical design of DGSs and has proven their usefulness in several applications, including Active Integrated Antennas, already widely recognized in the microwave community.

[REDACTED], President, Telwave, Inc., Korea, states:

This letter is to confirm that [the petitioner] as a technical consultant of Telwave Inc. in Hwasung, Korea has been taking a leading role in the invention of patents Telwave Inc. has and holds, and that all creative ideas of them were suggested by [the petitioner].

\* \* \*

[The petitioner's] ideas have been used to develop passive components for cellular communication system.

[REDACTED] s letter specifically identifies multiple patents from the United States, Korea, and Japan that are attributable to the petitioner.

[REDACTED] Patent Examiner and Microwave Engineer, Korean Intellectual Property Office, states: “[The petitioner] proposed DGS (defected ground structure) for the first time, which is a periodic structure for microwave transmission line. It is being proven through so many papers that DGS is a powerful periodic structure to be applied to extensive RF [Radio Frequency] and microwave circuits.”

[REDACTED] Associate Professor, Division of Electronics and Information Engineering, Chonbuk National University, Korea, states:

The petitioner is a prominent internationally well known scholar and a distinguished engineer in the field of advanced RF and microwave passive circuit design. He has authored and coauthored more than a hundred professional papers on RF and microwave circuit engineering, and those papers have been published and presented in prestigious international and domestic journals and conferences. His research on a new circuit designs which he named it Detected Ground Structure (DGS) are now widely used by engineers around the world and in their own research in a variety of way [sic].

In the same manner as earlier witnesses, [REDACTED] mentions the petitioner's publication record, which is more relevant to the criterion at 8 C.F.R. § 204.5(h)(3)(vi). Publication, by itself, is not a strong indication of

impact in one's field, because the act of publishing an article does not compel others to read it or absorb its influence. Yet publication can nevertheless provide a very persuasive and credible avenue for establishing the greater field's reaction to the petitioner's DGS technology. If a given article in a prestigious journal (such as the *Proceedings of the National Academy of Sciences of the U.S.A.*) attracts the attention of other researchers, those researchers will cite the source article in their own published work, in much the same way that the petitioner himself has cited sources in his own articles. Numerous independent citations would provide solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. In response to the director's request for evidence, the petitioner submitted a citation index reflecting an aggregate of 39 cites to a paper he coauthored in 2000 entitled "A novel 1-D periodic defected ground structure for planar circuits." On appeal, the petitioner submits a citation index reflecting an aggregate of more than 100 cites to a paper he first-authored in 2001 entitled "Design of the low-pass filter using the novel microstrip defected ground structure." This unusually large number of citations supports the preceding witnesses' claims that the petitioner's work is of major significance in the microwave circuit engineering field.

We find that the record adequately demonstrates the petitioner's contributions are important not only to the research institutions where he has worked, but throughout the greater field as well. Leading engineering scientists from around the world have acknowledged the value of the petitioner's work and its major significance to the electronic engineering community. Therefore, we find that the petitioner's evidence satisfies this criterion.

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

The petitioner submitted evidence of his authorship of articles appearing in publications such as *IEEE Transactions on Microwave Theory and Techniques* and *IEEE Microwave and Guided Wave Letters*. The petitioner also submitted evidence of scores of articles that cite his work. The unusually large number of cites to the petitioner's articles demonstrates widespread interest in, and reliance on, his work. Therefore, we find that the petitioner's evidence is adequate to satisfy this criterion.

Accordingly, the petitioner has satisfied three of the regulatory criteria required for classification as an alien of extraordinary ability. Pursuant to the statute and regulations as they are currently constituted, the petitioner qualifies for the classification sought.

In review, we find that the totality of the evidence establishes an overall pattern of sustained national and international acclaim and extraordinary ability in the electronic engineering field. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has overcome the stated grounds for denial and thereby 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. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

WAC 05 011 50189

Page 6

**ORDER:** The appeal is sustained and the petition is approved.