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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JAN 25 2007
WAC 05 055 50599

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:



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.

Mari Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner seeks classification as an “alien of extraordinary ability” in business, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). 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. Specifically, the director concluded that the petitioner meets only two of the regulatory criterion, of which an alien must meet at least three to be eligible for the classification sought.

On appeal, counsel submits a brief. For the reasons discussed below, we concur with the director’s analysis. Specifically, while the evidence is persuasive that the petitioner meets two of the regulatory criteria, the evidence falls far short of meeting an additional criterion.

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 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 she has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a researcher in the field of industrial business. 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 that, she claims, meets the following criteria.¹

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 evidence of academic recognition and an honorable mention for a presentation at a conference. The director concluded that this recognition did not amount to a nationally or internationally recognized prize or award for past excellence in the field. Counsel does not challenge this conclusion on appeal and we concur with the director.

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 submitted several book chapters, reports and articles that reference her work and an article on demand based software that includes quotes from the petitioner. Specifically, Chapter 13 in the "Handbook of Quantitative Supply Chain Analysis" reviews 10 quantitative approaches to modeling conflict in multi-channel distribution systems, including one set forth in a working paper by the petitioner. The chapter, at page 561, provides:

Because much of the research in this area is quite recent, many of the papers to be discussed have not yet appeared in the open literature, and are available as working papers only. Our including a paper in this review does not mean we believe it to be completely correct, or that it will eventually pass peer review and appear in print.

The 38-page chapter includes one page on the petitioner's approach. The petitioner submitted no evidence regarding the significance of this book.

A document entitled "Best Practices in eSourcing" on BearingPoint letterhead cites the petitioner's work, but the record contains no evidence that the document was published, let alone in major media. The petitioner submits a report by the United Nations Industrial Development Organization (UNIDO) on international subcontracting which includes 14 case studies on subcontracting use by a Subcontracting and Partnership Exchange (SPX). The 47-page report explains on page 6 that SPXs are used to provide assistance to developing countries. Prior to analyzing the 14 SPX case studies, the

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

report reviews six general subcontracting case studies apart from the main text of the report. In a half page analysis of the petitioner's case study, the report concludes that she "did not consider the problems entailed for subcontractors and suppliers by e-procurement and these should be considered to determine its net effects." The petitioner submitted no evidence regarding whether the report is an internal report or whether it was published. The record contains no evidence regarding the number of such reports UNIDO issues or the number of case studies it references annually.

Finally, the article on demand based management software that quotes the petitioner was posted on [REDACTED] website. The article does not credit the petitioner with developing or inspiring the software. Moreover, while the Internet materials about the magazine reflect that it is published by [REDACTED] and based in New York, the petitioner did not submit any evidence regarding the distribution of [REDACTED].

In response to the director's request for additional evidence, the petitioner submitted seven additional journal articles that briefly cite her work. Two of these articles postdate the filing of the petition and an additional article is authored by the petitioner's current supervisor.

The director concluded that the evidence submitted to meet this criterion did not set the petitioner apart from others in her field. On appeal, counsel reiterates the previously submitted evidence. We concur with the director.

The articles that merely cite the petitioner's work are not "about" her relating to her work. Rather, they are either a review of work in the field in general or the author's own work. The book chapter and UNIDO report provide a somewhat more extensive discussion of the petitioner's work, but the petitioner has not demonstrated that either is major media. While we do not question the prestige of the United Nations, the petitioner must demonstrate that the specific report reviewing her case study itself was not only published, as opposed to an internal report, but constitutes major media. Moreover, as stated above, the report concluded that a major factor was not included in the petitioner's analysis. As also stated above, the article on demand based management software is not "about" the petitioner relating to her own work and the record lacks evidence establishing that the magazine in which it appeared is major media.

In light of the above, the petitioner has not established that she meets this criterion. That said, we do not conclude that the evidence discussed above has no evidentiary value. Rather, it is relevant to the significance of the petitioner's scholarly articles pursuant to the criterion at 8 C.F.R. § 204.5(h)(3)(vi), a criterion the petitioner meets.

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.

Initially, the petitioner submitted a letter from [REDACTED] Director of the Tuck School of Business at Dartmouth and Editor of the Supply Chain Management Department of the journal

Production and Operations Management. In his letter, he asserts that the petitioner “is currently serving on my editorial team [sic] of the scholarly academic journal, *Production and Operations Management*.” [REDACTED] asserts that in this role, the petitioner evaluates the research within her field, providing valuable feedback to the journal. The petitioner also submitted a list of 100 members of the journal’s editorial review board. An e-mail notice from [REDACTED] the petitioner advises that the editorial review board “acts as referees for papers.” [REDACTED] predicts that the petitioner would be requested to review four to six papers per year for the journal.

In response to the director’s request for additional evidence, the petitioner submitted evidence regarding the reputation of the journal and lists of its departmental and senior editors. The petitioner is not a departmental or senior editor. The petitioner also submitted three requests from [REDACTED] to review manuscripts and a letter from [REDACTED] an associate editor for the journal, requesting that the petitioner review a manuscript.

The director concluded that manuscript reviews were inherent to the petitioner’s role as an editor and could not serve to meet this criterion. On appeal, counsel asserts that the petitioner’s role with the journal *Production and Operations Management* is not inherent to her main job with Stanford University. We concur with the director’s ultimate conclusion, if not the exact reasoning.

While [REDACTED] references an editorial board and the journal *Production and Operations Management* lists the petitioner as a member of an editorial review board, the number of such members, the duties described in [REDACTED] e-mail notice and the existence of departmental and senior editors with the journal reveal the petitioner simply served as a referee or peer reviewer for the journal.

We cannot ignore that peer reviewed journals rely on many professionals to review submitted articles. Thus, peer review is not indicative of or consistent with sustained national or international acclaim. Without evidence that sets the petitioner apart from others in his field, such as evidence that she has reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the petitioner meets this criterion.

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

Initially, counsel asserted that the petitioner was submitting letters from “several high-ranking professors researchers and executives in the field.” Counsel further noted the petitioner’s conference presentations.

The letters submitted, while from experienced members of the field, are all from the petitioner’s immediate circle of colleagues. [REDACTED] Co-director of the Stanford Global Supply Chain

Management Forum, discusses the petitioner's work as Director of Research with that forum. [REDACTED] asserts:

She was a key leader on projects like: (1) Return on Investment Models for RosettaNet; (2) Supply Chain Transformation and Values, sponsored by Accenture; (3) E-business models at Nokia and STMicroelectronics; and (4) Distribution strategies at Toyota.

[REDACTED] further asserts that the petitioner "has also been a key contributor to new teaching methods and innovations in teaching media." As an example, [REDACTED] mentions a collaboration between Stanford and a university in the Netherlands. Finally, [REDACTED] notes the petitioner's work on seminars, roundtables and forums. [REDACTED] does not, however, explain the impact of the four projects identified, provide examples of universities other than Stanford that have adopted the petitioner's teaching methods or state how the impact of the seminars, roundtables and forums exceeds that of other such common gatherings and exchanges of ideas.

[REDACTED], a professor at Stanford, praises the petitioner's research and managerial abilities and claims to have found the petitioner's seminars valuable. [REDACTED] further asserts that the petitioner published "managerial reports that significantly contributed to the scientific knowledge within this field." [REDACTED] does provide a specific example, asserting that a course taught by the petitioner analyzed supply chain analysis and produced recommendations to improve a company's performance that the company adopted. While this statement establishes that the petitioner is competent in producing useful information, it does not establish that the petitioner's research has implications beyond the company that commissioned the research. Finally, [REDACTED] asserts that the petitioner's case studies are used at Stanford "as well as other leading institutions throughout the United States." [REDACTED] does not identify any of these other leading institutions and the record contains no letters from professors at these institutions confirming their use of the petitioner's case studies and their significance.

[REDACTED] Vice President of RosettaNet, asserts that RosettaNet commissioned Stanford to study Intel and one of its suppliers. The petitioner led a group of students at Stanford to complete the study. [REDACTED] asserts that the study was eventually downloaded 8,000 times and that the petitioner subsequently developed calculator models "so that new trading partners could conduct a cost/benefit analysis before implementing the RosettaNet standards." [REDACTED] asserts that these models were used "by the community and are instrumental to securing implantation growth on a global basis." Finally, [REDACTED] praises the petitioner's case study about STMicroelectronics and its implementation of RosettaNet collaborative forecasting processes. The record does not contain letters from companies nationwide attesting to their use of the petitioner's models or published materials promoting the models or discussing their impact.

[REDACTED] asserts that the petitioner's work "on RosettaNet Standards and Multi-channel Distribution Networks have led to important insights and breakthroughs for US firms like Intel." [REDACTED] does not appear to represent Intel and the record contains no evidence from Intel explaining how the

petitioner's work on the above standards impacted their business and whether that impact goes beyond Intel, for whom the standards were developed.

Finally, [REDACTED] a Partner at Tefen, provides general praise of the petitioner's work at Tefen and their subsequent collaboration. [REDACTED] does not identify a specific contribution that has impacted the field.

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. Citizenship and Immigration Services (CIS) may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm. 1988). However, CIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796. CIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *See also 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)).

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the petitioner through his reputation and who have applied his work are the most persuasive. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

The petitioner also relies on her publications and conference presentations. We note that evidence of published scholarly articles is a separate criterion set forth at 8 C.F.R. § 204.5(h)(3)(vi) and find that conference presentations are comparable to scholarly articles. We cannot conclude that meeting one criterion is presumptive evidence of meeting a second criterion if the regulatory requirement that an alien meet at least three criteria is to have any meaning. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. To be considered a contribution of major significance in the field of business research, it can be expected that the results would have already been applied in the business world. Otherwise, it is difficult to gauge the impact of the petitioner's work.

We acknowledge that the petitioner has published her research and the companies for whom the research was prepared have utilized the results. While the petitioner's research is no doubt of value, it does not follow that every business researcher who performs original research and case studies that

adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole.

As discussed above, the petitioner provides no independent letters or other evidence establishing the significant impact of her case studies and other research on the field as a whole.

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

We concur with the director that the petitioner meets this criterion.

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

We concur with the director that the petitioner meets this criterion.

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 herself as a business researcher to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner shows talent as a business researcher, but is not persuasive that the petitioner's achievements set her significantly above almost all others in her field. 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.