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U.S. Citizenship
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Services

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FILE: LIN 04 088 50124 Office: NEBRASKA SERVICE CENTER Date: JUN 14 2007

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 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
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) 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. 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. The director also determined the petitioner had not submitted clear evidence that he would continue work in his area of expertise in the United States.

On appeal, the petitioner states that the director failed to consider the documentation submitted in response to the request for evidence. The petitioner also argues that he meets at least three of the regulatory criteria set forth at 8 C.F.R. § 204.5(h)(3) and that his statement of plans for work in the United States indicates that he will continue work in his area of expertise in this country.

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 sustained national or international acclaim at the very top level.

This petition, filed on February 6, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a researcher in the field of Computational Fluid Dynamics (CFD). Part 6 of the Form I-140 petition,

“Basic information about the proposed employment,” was left blank. On appeal, the petitioner states that he “was employed at University of Illinois at Chicago from April 2002 to April 2003” and that he then worked on “the development of a three-dimensional photocatalytic reactor model” in South Korea starting in 2004.

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. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of “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). The petitioner has submitted evidence pertaining to 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 submitted a “Certificate of Achievement” issued to him by the Wichita State University (WSU) High Performance Computing Center on December 13, 2000 “for achieving one million CPU minutes in one year on hydra.” The record reflects that the petitioner worked as Postdoctoral Research Associate at WSU’s National Institute for Aviation Research (NIAR) from 1999 to 2002.

The petitioner also submitted a “Certificate of Honour” and a medal reflecting that [REDACTED], a sister company of his previous employer, [REDACTED], presented him with a “Best Paper Award.”¹ The certificate states: “This paper was adjudged the Best Paper amongst all the papers appearing in *Tata Search*, an annual journal covering the technological advances in [REDACTED].”

We find that the preceding awards from the petitioner’s former employers, [REDACTED] and [REDACTED], reflect institutional recognition rather than national or international recognition. There is no evidence such as independent press coverage surrounding the petitioner’s awards or evidence showing that they command a substantial level of recognition beyond the presenting organizations. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), however, specifically requires that the awards or prizes be nationally or internationally *recognized* and it is the petitioner’s burden to establish every element of a given criterion. We further note that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Pursuant to the statute and regulations, the petitioner must provide adequate evidence showing that the awards presented for this criterion enjoy significant national or international stature.

¹ Tata Steel and Tata Consultancy Services are companies within the Tata Group, an India-based conglomerate comprised of 96 operating companies in seven business sectors. See http://www.tata.com/0_about_us/group_profile.htm, accessed on May 24, 2007.

The petitioner's initial submission also included a July 2001 letter from Strathmore Directories Ltd. extending him "an invitation to be included in the forthcoming 2001-2002 edition of *Strathmore's WHO'S WHO*."² The letter further states: "This unique volume recognizes those men and women who have achieved success in their respective fields. . . . Kindly respond to this invitation, now while it is convenient, by completing the enclosed information card." The petitioner also submitted evidence showing that he received a plaque confirming his inclusion in the 2001-2002 edition. The plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(i) requires that the prize or award be presented for "excellence in the field" rather than simply for having "achieved success" in the field. The *Strathmore WHO'S WHO* publication, with such a limited portion devoted to the petitioner, is more of a comprehensive professional directory or registry rather than a special form of recognition limited to an elite few in the petitioner's field. Appearing as one of thousands, or even hundreds of other successful individuals in a regularly published directory is not evidence of national or international acclaim.

In light of the above, the petitioner has not established that he meets this criterion.

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.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his "Associate Member" status in the American Institute of Aeronautics and Astronautics (AIAA) and his membership in the American Society of Mechanical Engineers (ASME). The petitioner also submitted documentation showing that he filled out an online "Membership Application Form" for the Canadian Society for Mechanical Engineering, but there is no first-hand evidence confirming his admission to membership in the CSME.³ While the record includes documentation printed from the internet websites of the AIAA, ASME, and CSME containing general information about these organizations, there is no evidence of their membership bylaws or official admission requirements. We find no evidence showing that admission to membership in these organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership. Therefore, the petitioner has not established that he meets this criterion.

² The record includes no evidence of the petitioner's published entry in this directory of professionals.

³ The online CSME application submitted by the petitioner bears a date of October 4, 2003. The sections on the application entitled "Past Member Year" and "Past Member Number" were left blank.

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.

In order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.⁴

The petitioner submitted a number of articles that merely reference his published work. The director concluded that the citing articles and conference papers were not “about the petitioner’s achievements and career.” The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be about the petitioner. In this case, the articles that cite the petitioner’s work are primarily about the author’s work, not the footnoted material identifying the petitioner. If the petitioner and his work are not the main subject of these articles, then such materials fail to demonstrate his national or international acclaim. We cannot ignore that the articles citing the petitioner’s work similarly referenced numerous other authors. In the petitioner’s field, it is the nature of research work to build upon work that has gone before. In some instances, prior work is expanded upon or supported. In other instances, prior work is superseded by the findings in current research work. In either case, the current researcher normally cites the work of the prior researchers. Clearly this is not the same thing as published material written about an individual’s work in the field. This type of material does not discuss the merits of an individual’s work, the individual’s standing in the field, or any significant impact that his or her work has had on work in the field. Citations of the petitioner’s work will be further addressed under the “authorship of scholarly articles” criterion at 8 C.F.R. § 204.5(h)(3)(vi).

In light of the above, the petitioner has not established that he meets this 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 regulation at 8 C.F.R. § 204.5(h)(3) provides that “a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” Evidence of the petitioner’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor.

The petitioner submitted material from the organizers of the ASME Proceedings of the 7th AIAA/ASME Joint Thermophysics and Heat Transfer Conference (1998) “Thermal Management of Electronics” session thanking

⁴ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual’s reputation outside of that county.

him for his services a manuscript reviewer. One of the two organizers of the session for which the petitioner reviewed papers was [REDACTED] Associate Professor, Department of Mechanical Engineering, Northern Illinois University, who coauthored several research papers with the petitioner in the 1990's. The petitioner also submitted a March 28, 2001 letter from [REDACTED] requesting that the petitioner review a manuscript "for possible publication in the Biennial Issue on Advances in Electronics Cooling, *Journal of Electronics Manufacturing*." In the preceding instances, there is no evidence that the petitioner's acclaim as a research engineer resulted in his being selected as a reviewer. Rather, it would be more reasonable to conclude that the petitioner was selected because his former research collaborator, [REDACTED] happened to serve in an editorial capacity for the *Journal of Electronics Manufacturing* and as an organizer of the Thermal Management of Electronics conference session.

The petitioner also submitted a July 13, 2001 letter from the Assistant Editor of *Computational Methods for Heat and Mass Transfer* requesting that the petitioner review sample chapters. The petitioner's evidence for this criterion also included a January 21, 2000 letter from a co-organizer of the ASME National Heat Transfer Conference 2000, Pittsburgh, requesting that the petitioner review a paper for presentation at that conference.

Regarding the correspondence dated January 21, 2000, March 28, 2001, and July 13, 2001, the plain language of this criterion requires "evidence of the alien's participation . . . as a judge of the work of others." The preceding correspondence indicates that the petitioner was requested to review materials for publication or presentation, but there is no evidence showing that he actually completed the requested reviews.

The director's decision noted that it had "not been shown the (typically anonymous) manuscript reviews are indicative of . . . sustained national or international acclaim." We concur with the director and note that peer review is a routine element of the process by which articles are selected for publication in scholarly journals or for presentation at engineering conferences. Occasional participation in peer review of this kind does not automatically demonstrate that the petitioner has sustained national or international acclaim at the very top of his field. Reviewing manuscripts is recognized as a professional obligation of researchers who publish themselves in scientific journals. Normally a journal's editorial staff will enlist the assistance of numerous professionals in the field who agree to review submitted papers. It is common for a publication to ask several reviewers to review a manuscript and to offer comments. The publication's editorial staff may accept or reject any reviewer's comments in determining whether to publish or reject submitted papers. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has served in an editorial position for a distinguished journal or that he has reviewed an unusually large number of articles for a substantial number of journals and conferences, we cannot conclude he meets this criterion.

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

The petitioner submitted letters of support mostly from former colleagues who discuss his work.

An April 11, 2001 letter from [REDACTED], Professor, Mechanical Engineering Department, WSU, states:

I have known [the petitioner] for about two years as a Postdoctoral Fellow working at the National Institute for Aviation Research, Wichita State University. He also worked in the Mechanical Engineering department of WSU in the capacity of an Adjunct Assistant Professor. Before this he worked at Kansas State University as a Postdoctoral Fellow for one year. Prior to this he worked as a Consultant with the Tata Research Development & Design Centre, India. While working in all these positions, he has made significant contributions on a number of outstanding research topics such as performance analysis of scramjet propulsion system, design of electronic cooling system, development & design of heat exchanger using various techniques and thermal analysis of steel-making system. He has shown his extraordinary ability in doing such outstanding research in the field of computational fluid dynamics. . . .

* * *

[The petitioner's] scholarly work is clearly evidenced through a long list of conference & journal publications and I believe it is a remarkable achievement. He is an outstanding researcher and he has not only been working with academic researchers but also with researchers from National Laboratories like AFOSR [Air Force Office of Scientific Research] and other laboratories. His work is well known internationally in the areas of Computational Fluid Dynamics, Heat Transfer, Fluid Dynamics and Thermodynamics. . . . I have become familiar with [the petitioner's] work through his outstanding research publications. He has made unique contributions in the field of Computational Fluid Dynamics/Computational Magnetohydrodynamics while doing research in the field of supersonic aerospace vehicles. . . .

* * *

[The petitioner] has done pioneering research work in the field of Computational Fluid Dynamics, having developed Computational Fluid Dynamics Codes for analyzing/improving various thermo-mechanical systems.

Regarding the petitioner's research papers, we note that any technical research, in order to be accepted for publication or presentation, must offer new and useful information to the pool of knowledge. It does not follow that every engineering scientist who performs original research that adds to the general pool of knowledge or who incrementally improves an existing technology has inherently made a contribution of major significance to the field as a whole. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the petitioner'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 science or engineering, it can be expected that the petitioner's technical innovations would have already been widely utilized or confirmed by independent experts throughout his field. Otherwise, it is difficult to gauge the impact of the petitioner's work. Without objective evidence showing that the technical papers coauthored by the petitioner have significantly influenced his field, we cannot conclude that his work qualifies as an original contribution of major significance. The petitioner must demonstrate not only that he has published and presented original work, but also that it has impacted the field such that it can be considered indicative of sustained national or international acclaim.

An April 3, 2001 letter from [REDACTED], Associate Professor, Department of Mathematics and Statistics, WSU, states:

[The petitioner] is an outstanding researcher in the field of Computational Fluid Dynamics. His idea and method of doing research work in the area of fluid flow and heat transfer is quite impressive and unique. He has developed numerical techniques for analyzing problems related to fluid flow and heat transfer using well established algorithm and schemes in the area of propulsion system, electronic cooling and power systems.

More importantly, he is one of the few Thermal Analysts and Computational Fluid Dynamists who has done pioneering research work in the field of Computational Fluid Dynamics. He has successfully developed the Computational Fluid Dynamics Codes for analyzing various mechanical systems for the improvement of their efficiencies. His work in the area of Computational Fluid Dynamics, Fluid Mechanics and Heat Transfer is well known by peers both in this country and abroad due to his significant contribution on these subjects and extraordinary ability of doing excellent research work. He has a proven track record in a series of conference/journal papers.

A March 31, 2001 letter from [REDACTED], Professor of Physics, WSU, states: “[The petitioner’s] publications reflect his pioneering work and his remarkable contributions in his field of expertise.”

As stated previously, [REDACTED] coauthored several research papers with the petitioner in the 1990’s. Dr. Majumdar’s March 30, 2001 letter of support states:

[The petitioner] has been working in the field of Computational Fluid Dynamics (CFD) since the last 5 years beyond his Ph.D. He has performed outstanding research work through the extensive development of various complicated scientific software in the area of electronic cooling, heat exchanger, steel-making, magnetohydrodynamics using different CFD techniques. I have been closely working with him in the field of electronic cooling. He has published several important journal papers and numerous conference papers. He has established his credibility in the field of Computational Fluid Dynamics through his outstanding research in his field of expertise. Lately, he has shown his exceptional ability and unique skills in magnetohydrodynamics while conducting research as a Postdoctoral Research Fellow in the National Institute for Aviation Research, Wichita State University.

An April 11, 2001 letter of support from [REDACTED], Senior Research and Development Engineer, Advanced Structure Development Department, Bombardier Aerospace-Learjet Inc., Wichita, Kansas, states:

[The petitioner] has been employed as a Postdoctoral Research Fellow in the National Institute for Aviation Research (NIAR) at Wichita State University. He has excellent expertise in Computational Fluid Dynamics (CFD) and Thermal Analysis.

He has developed successfully, the Computational Fluid Dynamics Codes, to improve efficiencies of various mechanical systems. His pioneering research work in Computational Fluid Dynamics, Fluid Mechanics, and Heat Transfer is well known to his peers in this country and abroad, due to his

significant contribution on these subjects and extraordinary ability of doing outstanding research work. He has published approximately 25 technical papers for conferences and journals.

An undated letter from [REDACTED], Director General, Hypersonic System Research Institute, St. Petersburg, Russia, states:

I have seen both of [the petitioner's] papers on Magnetohydrodynamics presented in 31st AIAA Plasamodynamics and Lasers Conferences & 39th AIAA Aerospace Sciences Meeting and Exhibit, Reno, January, 2001. I was present in the conference where he presented his paper entitled "Numerical Study of Scramjet Inlets with Finite Rate Chemistry." No doubt, his work on a complex research field like Magnetohydrodynamics is outstanding. [The petitioner] is one of a few researchers in the world who have made significant theoretical/analytical/experimental/numerical contributions in the research on Magnetohydrodynamics. [The petitioner] has done pioneering research work in the simulation of two dimensional scramjet inlets numerically using electromagnetohydrodynamics equations with variable conductivity, bi-temperature model and finite rate chemistry.

When judging the influence and impact that the petitioner's research papers have had, the very act of publication or presentation is not as reliable a gauge as is the citation history of the published work. 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. If, on the other hand, there are few citations of an alien's work, suggesting that that work has gone largely unnoticed by the greater field, then it is reasonable to conclude that the alien's work is not nationally or internationally acclaimed as a contribution of major significance. In response to the director's request for evidence, the petitioner submitted "Web of Science" citation indices showing that his most frequently cited article was cited only five times. In this case, the limited number of independent cites to the petitioner's articles is not adequate to demonstrate that his research has had a nationally or internationally significant impact or that it rises to the level of a contribution of major significance in his field.

The record includes evidence showing that the petitioner has coauthored research papers for presentation at scientific conferences such as those sponsored by the AIAA. In the fields of science and engineering, we find that acclaim is generally not established by the mere act of presenting one's work at a conference. The record includes no documentation demonstrating that the presentation of one's work is unusual in the petitioner's field or that the invitation to present at conferences where the petitioner spoke was a privilege extended to only a few top engineers. Many professional fields regularly hold conferences and symposia to present new work, discuss new findings, and to network with other professionals. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. Participation in such events, however, does not elevate the petitioner above almost all others in his field at the national or international level. The record includes no evidence distinguishing the petitioner from others in his field such as evidence showing that his presentations had significantly higher rates of attendance when compared to those of the other conference participants or that the petitioner has served as a keynote speaker at a national or international engineering conference.

Nevertheless, the research papers coauthored and presented by the petitioner relate to the “authorship of scholarly articles” criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, CIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. We will fully address the research papers coauthored by the petitioner under the next criterion.

An April 24, 2001 letter from [REDACTED] Bloomfield Distinguished Professor of Aerospace Engineering and Executive Director of the National Institute for Aviation Research at WSU, states:

[The petitioner] has been working as a Postdoctoral Research Associate at the National Institute for Aviation Research (NIAR) for past [sic] two years. [The petitioner] has been working in the research program entitled “Computational Fluid Dynamics (CFD)/Computational Magnetohydrodynamics”.... During his association with us in past two years, he has already made important contributions to the project. . . . The work is of interest to the U.S. Airforce [sic].

The record, however, includes no evidence from an official of the United States Air Force indicating that this branch of the U.S. armed forces finds the petitioner’s work to be of major significance.

An April 10, 2001 letter from [REDACTED] Tata Research Development and Design Centre, India, states:

[The petitioner] worked at the Tata Research Development & Design Centre in India as a Senior Research Scientist for about 3 years. . . . During his service with the Tata Research Development & Design Centre, [the petitioner] successfully completed the project on Steel-making and played the key role in bringing forth two projects from the Tata Iron & Steel Company (TISCO – a pioneering steel industry of India) based on the successful completion of his earlier project assignments. He has shown extraordinary ability in the development of the two dimensional process model incorporating fluid flow, heat transfer and chemical compositions starting from online purging to casting for that project.

. * * *

Since then, [the petitioner] has continued his excellent research at Northern Illinois University in the related area of electronics cooling. It was solely to his credit that the Tata Research Development and Design Centre collaborated with Northern Illinois University in the area of Electronic Cooling. He has contributed significantly in the area of Computational Fluid Dynamics, particularly in the area of electronic cooling, power plant and computational magnetohydrodynamics. [The petitioner] has shown his unique ability in investigation and improvement of the design of scramjet inlets, electronic cooling & power plant. I have no hesitation in saying that he is one of the very few persons I know, who has been able to develop a couple of three-dimensional models (compressible/incompressible) in complex geometry for various applications, such as electronic cooling, heat exchanger and magnetohydrodynamics.

A March 17, 2003 letter from [REDACTED] Senior Chemical Engineer, Gas Technology Institute (GTI), Des Plaines, Illinois, states:

[The petitioner] is highly regarded at GTI for his contributions as a member of a team advancing GTI's METHANE de-NOX (MdN) technology for the reduction of gaseous emissions in stoker combustion systems. [The petitioner] actively participated on a project evaluating the potential benefits of MdN technology for a major producer's paper mill situated in Louisiana.

Specifically, [the petitioner] successfully led the work and in a timely manner completed the configuration of a CFD model for an existing 200,000 pound per hour biomass spreader-stoker boiler. During this development, I worked closely with [the petitioner] regarding stoker combustion issues. He was a quick learner about stoker-boiler systems and lately has been doing work on GTI's super-boiler project. [The petitioner] built a 3D grid for the stoker geometry using Fluent code and then generated simulations for model validation purposes with actual plant data. Based on simulation results, [the petitioner] further adjusted and tuned model parameters until simulation results compared favorably with actual data.

The letters from [REDACTED] and [REDACTED] indicate that the petitioner performed admirably on projects for Tata and GTI, but there is no evidence showing that the work attributable to him has had a substantial national or international impact beyond these companies such that it can be considered an original contribution of "major significance in the field."

Aside from [REDACTED], who met the petitioner at a scientific conference, the individuals offering letters of support in this case are limited to individuals from institutions where the petitioner has worked or those with whom he has collaborated on engineering projects. With regard to the personal recommendation of individuals with ties to the petitioner, the source of the recommendations is a highly relevant consideration. These letters are not first-hand evidence that the petitioner has earned sustained acclaim for his contributions outside of his affiliated institutions. The statutory requirement that an alien have "sustained national or international acclaim," however, necessitates evidence of recognition beyond direct acquaintances of the petitioner. See section 203(b)(1)(A)(i) of the Act.

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. 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. Thus, the content of the experts' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a research engineer who has sustained national or international acclaim. Without extensive documentation showing that the petitioner's work has been unusually influential or highly acclaimed throughout the greater field, we cannot conclude that his work rises to the level of a contribution of major significance.

In light of the above, the petitioner has not established that he meets 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 *Steel Research*, *Journal of Heat Transfer*, and *Journal of Electronics Manufacturing*. The petitioner also submitted citation indices and copies of articles citing his work demonstrating some measure of interest in his published research.⁵ Therefore, we find that the petitioner's evidence is adequate to minimally satisfy this criterion.

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

In order to establish that he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted documentation indicating that he has held research positions at Kansas State University, WSU, Northern Illinois University, and Tata Consultancy Services. The petitioner's appellate brief states that he "was employed at University of Illinois at Chicago from April 2002 to April 2003," but the petitioner does not claim to have performed in a leading or critical role for the university.

In addressing the petitioner's evidence, the director's decision stated:

While Kansas State University and Wichita State University undoubtedly have distinguished reputations in engineering research, the record lacks evidence differentiating the petitioner's role from that of other researchers holding similar appointments, let alone more senior faculty in the organization. The record does not demonstrate that the petitioner held a senior office within the organizations, or was otherwise responsible for the organizations' success or standing to a degree consistent with the meaning of "leading or critical role." In the context of scientific research, participation in most research projects is inherently important but not necessarily qualifying in scope or impact to meet this criterion.

On appeal, the petitioner states: "In my petition, I claimed that I played a critical role for the project sponsored by Air Force Office for Scientific Research (AFOSR) for Wichita State University." The record, however, includes no evidence from an official of the AFOSR indicating that the petitioner's role was leading or critical to its operations. While the letter of support from [REDACTED] of WSU indicates that the

⁵ While sufficient to minimally satisfy this criterion, the petitioner has not shown that his publication record and citation history elevate him to a level above almost all others in his field or that his published research findings have earned him national or international acclaim. According to the "Web of Science" citation indices submitted by the petitioner, the greatest number of cites to any single article authored by him was five.

petitioner worked “with researchers from National Laboratories like AFOSR,” [REDACTED]’s letter does not state that the petitioner performed in a leading or critical role for the AFOSR.

When comparing the roles and responsibilities of the petitioner with those of his superiors from WSU and Northern Illinois University who have offered letters of support, it becomes immediately apparent that the importance of their roles and responsibilities far exceeded that of the petitioner. While we accept that these universities have earned a distinguished reputation, there is no evidence showing that the petitioner’s role was of significantly greater importance than that of the other researchers employed by these universities (including tenured professors such as [REDACTED]). Thus, we do not find that the petitioner’s roles at WSU or Northern Illinois University were tantamount to a “leading or critical role” for either university.

As stated previously, the petitioner submitted a letter of support from [REDACTED] of the Tata Research Development and Design Centre.⁶ [REDACTED]’s letter states that the petitioner “successfully completed the project on Steel-making and played the key role in bringing forth two projects from the Tata Iron & Steel Company . . . based on the successful completion of his earlier project assignments,” but there is no evidence showing that the petitioner performed in a leading or critical role for Tata beyond these particular projects. Further, there is no evidence showing that the petitioner’s role was of significantly greater importance than that of the other researchers employed by Tata Consultancy Services.

In light of the above, the petitioner has not established that he meets this criterion.

In this case, we concur with the director’s finding that the petitioner has failed to demonstrate his receipt of a major internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the national or international acclaim necessary to qualify as an alien of extraordinary ability.

Other comparable evidence.

The regulation at 8 C.F.R. § 204.5(h)(4) states: “*If the above standards do not readily apply to the beneficiary’s occupation, the petitioner may submit comparable evidence to establish the beneficiary’s eligibility.*” [emphasis added].

On appeal, the petitioner states:

In this category, I would like to claim . . . that my work is extraordinary because I have been working in the same field since the last 10 years beyond Ph.D. for developing/modeling of different types of CFD tools for design and development of different types of industrial systems (like power plant, steel making, electronic cooling, propulsion system, combustion) for real-world applications in multidisciplinary areas (e.g., chemical, mechanical, metallurgy & aerospace). As one industrial system is different from the other, an extraordinary ability is required to model/develop different CFD tools based on physical understanding & complexity of each system.

⁶ This letter fails to identify its author’s job title.

The regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of “comparable evidence,” but only if the ten criteria “do not readily apply to the beneficiary’s occupation.” The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the petitioner’s occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). Where an alien is simply unable to meet three of these criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence.

Nevertheless, we do not find that a statement from the petitioner discussing his prior work experience in developing and modeling CFD tools for industrial systems is “comparable” to the strict documentation requirements in the regulations setting forth the ten criteria. We find that the petitioner’s reliance upon his personal observations about his prior work experience rather than specific evidence of his achievements and recognition is misplaced. Pursuant to section 203(b)(1)(A)(i) of the Act, the classification sought requires “extensive documentation” of sustained national or international acclaim, and the petitioner cannot arbitrarily replace such evidence with a lengthy statement detailing his work on various CFD applications. The commentary for the proposed regulations implementing section 203(b)(1)(A) of the Act provides that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). We find that evidence in existence prior to the preparation of the petition is of greater probative value than a self-serving statement written by the petitioner in support of his petition.

As stated previously, the director also determined the petitioner had not submitted clear evidence that he would continue work in his area of expertise in the United States. The regulation at 8 C.F.R. § 204.5(h)(5) requires “clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.”

In response to the director’s request for evidence and again on appeal, the petitioner submitted a statement detailing his plans on how he intends to continue his work in the field of Computational Fluid Dynamics in the United States. We find that the preceding statement by the petitioner is adequate to demonstrate he intends to continue work in his area of expertise in the United States. While we agree with the director that the record initially lacked clear evidence indicating how the petitioner intended to continue his work in the United States, we find that the detailed statement submitted by the petitioner in response to the director’s request for evidence and again on appeal is adequate to satisfy the regulation at 8 C.F.R. § 204.5(h)(5). We, therefore, withdraw the director’s finding on this issue.

Nevertheless, we find that the petitioner has not satisfied at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). Review of the record does not establish that the petitioner has distinguished himself 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 the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A)(i) of the Act and the petition may not be approved.

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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.