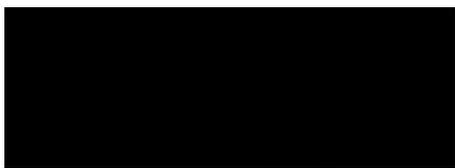


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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

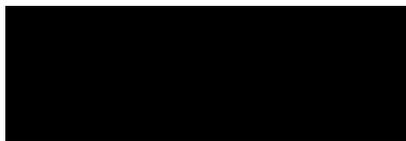


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FILE: WAC 02 105 52596 Office: CALIFORNIA SERVICE CENTER

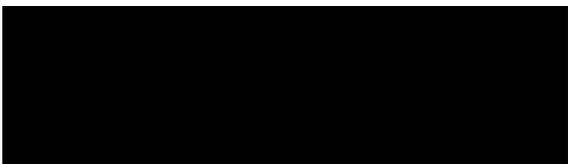
Date: FEB 20 2004  
FEB 20 2004

IN RE: Petitioner:  
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER:



**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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.

*For* *Mari Johnson*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment based immigrant visa petition was denied by the Director, California Service Center. On appeal, the Administrative Appeals Office (AAO) withdrew the director's decision and remanded the case for further action and consideration. The director again denied the petition and the matter is now before the AAO on certification. The director's decision will be withdrawn and the petition will be approved.

The petitioner, a semiconductor manufacturer, seeks to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B), as an outstanding professor or researcher. The petitioner seeks to employ the beneficiary as a "Library Services Representative for Intel Library's Research and Information Group." In the Service Center's decision dated November 4, 2003, the director found the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field. The director also concluded that there was no evidence of a permanent offer of employment predating the petition's filing date.

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):

(B) Outstanding Professors and Researchers. -- An alien is described in this subparagraph if-

(i) the alien is recognized internationally as outstanding in a specific academic area,

(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

(iii) the alien seeks to enter the United States --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(iii) An offer of employment from a prospective United States employer. A labor certification is not required for this classification. The offer of employment shall be in the form of a letter from:

(A) A United States university or institution of higher learning offering the alien a tenured or tenure-track teaching position in the alien's academic field;

(B) A United States university or institution of higher learning offering the alien a permanent research position in the alien's academic field; or

(C) A department, division, or institute of a private employer offering the alien a permanent research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states that a petition for an outstanding professor or researcher must be accompanied by “[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition.” The regulation lists six criteria, of which the beneficiary must satisfy at least two. It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. We find that the petitioner’s evidence satisfies the following two criteria.

*Evidence of the alien’s original scientific or scholarly research contributions to the academic field.*

Initially, the petitioner submitted several witness letters from the beneficiary’s current and former colleagues. In the appellate decision, the AAO stated:

While the witnesses have asserted in general terms that the beneficiary is “an internationally known scholar in the field of library science,” he appears to have earned a reputation only among individuals from institutions where he has studied or worked. The absence of substantial independent testimony raises doubt as to the extent of the beneficiary’s recognition.

In responding to the director’s notice of intent to deny, the petitioner addressed this issue by providing further witnesses letters. We cite representative examples here.

Dr. [REDACTED] Professor of Library and Information Studies at Loughborough University in the United Kingdom, states:

I have been familiar with [the beneficiary’s] work...through his publications in major international journals, although I have never met nor worked with him. The work which he undertook while in New Zealand showed early promise of an innovative approach to the discipline. His subsequent work, notably his book *Printing and the Book Trade in Early Nelson*, shows that promise to have been amply fulfilled. I regard him a significant scholar in the field, who has made a distinctive contribution of international standing.... It should be noted that the journals in which he publishes, such as *Libri, Libraries and Culture*, and *The Library*, are among leaders in the field, and have exceptionally high standards of refereeing and editing.

Dr. [REDACTED] Professor of Information and History, University of Texas at Austin, states that he has served as Editor of *Libraries and Culture* since 1976. He further states:

The Editorial Board was very pleased to publish a seminal research contribution by [the beneficiary]...entitled, "The Availability and Use of Books in Libraries in Nineteenth-Century Bendigo, Australia." [The beneficiary's] case study demonstrates what can be done to document the social and cultural development of a forgotten community. It thus serves as a kind of model for others to research various enclaves.... In fact, I have directed students in the direction of this article to use as an example of how perceptions can be assessed on the basis of evidence.

This work is on the cutting edge of research currently underway on the history of reading and book history – as institutionalized in the international scholarly group, the Society for the History of Authorship, Reading and Publishing, and the Section on Library History of the International Federation of Library Associations and Institutions.

Dr. [REDACTED] former [REDACTED] Cambridge University Library, states that he does not know the beneficiary personally, but that he has "long known and admired [the beneficiary's] published work on the New Zealand history of the book." Dr. [REDACTED] describes the beneficiary as "an important pioneer" of a movement in New Zealand to survey the history of print culture in that country. Dr. [REDACTED] adds:

[The beneficiary's] work showed how a [printing] enterprise should be managed, but more importantly that this sort of history was worth doing at all in New Zealand. Other scholars have been encouraged by [the beneficiary's] example to work on other New Zealand printers...

\* \* \*

I must also point out that where a field of scholarship is relatively new and the quantity of work sparse, the value of exemplary studies such as [the beneficiary's] is redoubled.

\* \* \*

Taking advantage of his location, in...the early 1990's he published on Australian book trade topics (on newspapers in Melbourne and in the gold-field settlement of Bendigo, on libraries and reading in Bendigo, [and] on printing in the State of Victoria) again anticipating the recent spate of activity that has led to the History of the Book in Australia Project. This work...shows [the beneficiary's] ability to be in the forefront of a new movement. Such a talent is valuable and rare, and deserves to be classed as outstanding.

[REDACTED] Senior Lecturer, University of Waikato, New Zealand, states:

I have found [the beneficiary's] work on the early libraries and newspapers in Nelson, New Zealand most useful for my own studies and teaching. The work is erudite and original. It is a significant contribution to library science and to the history of the Nelson region. It has added considerably to the general understanding of that part of New Zealand history.

[REDACTED] Curator, Special Collections, Baillieu Library, University of Melbourne, states:

I am not personally acquainted with [the beneficiary], and therefore can comment only on the publications themselves. There is a growing body of work on the history of the Australian and New Zealand newspaper industry, but when [the beneficiary] was working in this area in the 1980s it was largely unexplored. His work is currently among the pioneering efforts, and a number of historians have followed him in attempting to analyze the economics of colonial newspaper publishing by such techniques as close examination of advertisements.

The witnesses offering letters of support are no longer limited to the beneficiary's immediate colleagues. The evidence presented in response to the notice of intent to deny shows that the beneficiary's work has garnered the attention of library scholars throughout the world. Independent experts in the field of library science have acknowledged the value of the beneficiary's work and shown that his contributions have garnered international recognition. We therefore withdraw the director's finding that the petitioner's evidence fails to satisfy this criterion.

*Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.*

The petitioner initially submitted evidence of the beneficiary's authorship of several published journal articles and a book. In response to the director's notice of intent to deny, the petitioner provided detailed circulation and distribution information from independent sources showing that the publications featuring the beneficiary's work are internationally circulated. Also provided were additional citations of the beneficiary's published work. In this case, the number of citations presented is sufficient to demonstrate international interest in, and reliance on, the beneficiary's work. These citations show that other library scholars have acknowledged the beneficiary's influence and found his work to be significant. We therefore withdraw the director's finding that the petitioner's evidence fails to satisfy this criterion.

The director's November 4, 2003 decision also concluded that there was no evidence of a formal job offer pre-dating the petition's filing date. In the present matter, counsel disputes this finding, stating: "The regulation does not require the petitioner to submit an employment offer letter that predates the filing of the petition, nor is it legal to offer a foreign worker who is in H-1B status a permanent job." In fact, the regulation at 8 C.F.R. § 214.2(h)(16)(i) explicitly allows for approval or extension of an H-1B petition while an alien is seeking to become a permanent resident of the United States. Further, the regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher "must be accompanied by an offer of employment from a prospective United States employer in the form a letter" from, in this case, "a private employer offering the alien a permanent research position in the alien's academic field."

Counsel argues that a letter from [REDACTED] Human Resource Specialist, Intel Corporation, dated October 7, 2003, constitutes a qualifying job offer letter. Delon Cho's letter indicates that the beneficiary is employed by Intel, but the letter is not an offer of employment addressed to the beneficiary; rather, it is a letter to the "Director, California Service Center" which discusses (among other things) the beneficiary's research duties at Intel. This letter does not constitute a formal offer of employment; indeed, it implies that the beneficiary has already accepted an offer made earlier. In order to satisfy the regulatory requirements at 8 C.F.R. § 204.5(i)(3), the petitioner must provide evidence of a letter, pre-dating the petition's filing date, that initiated an employer-employee relationship between the petitioner and the beneficiary or otherwise extended a formal job offer from the petitioner to the beneficiary. Upon review of the documents submitted by the petitioner subsequent to the AAO's appellate decision, we find that the record does contain a qualifying job offer letter

from Intel dated April 26, 2001. The letter, from [REDACTED] Intel Staffing Consultant, is addressed to the beneficiary and begins with statement: "Congratulations! Intel Corporation is pleased to offer you the General Full-Time position of Information Specialist, Sr., reporting to Alma Howell."

In its prior appellate decision, the AAO concluded that the beneficiary's duties at Intel involve conducting "research" in his academic field, Library Science. In the present matter, we find that the evidence submitted satisfies at least two of the regulatory criteria at 8 C.F.R. § 204.5(i)(3)(i) and that the record contains a qualifying job offer letter from the petitioner to the beneficiary. Therefore, the petitioner has overcome the grounds for denial and established that the beneficiary qualifies under section 203(b)(1)(B) of the Act as an outstanding researcher.

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.

**ORDER:** The decision of the director is withdrawn and the petition is approved.

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