

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

RB3

PUBLIC COPY



FEB 26 2004

FILE: [redacted] Office: TEXAS SERVICE CENTER Date:
SRC 01 225 64303

IN RE: Petitioner: [redacted]
Beneficiary: [redacted]

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:



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 *Maui Johnson*
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas 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, a company that develops and markets optical transmission equipment and telecommunications systems, 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 Research Scientist. The director found that the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field.

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)(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 participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field.

The petitioner submitted evidence showing that the beneficiary reviewed papers for various journals and conferences. For example, the record contains two letters from conference chairpersons thanking the beneficiary for reviewing and handling papers for the European Conference on Universal Multiservice Networks (2002) and the International Conference on Communications (2002). We note here that peer review of manuscripts is a routine element of the process by which articles are selected for scientific conferences and publication in scholarly journals. Occasional participation in peer review of this kind does not automatically demonstrate that the beneficiary has achieved international recognition as outstanding in his academic field.

In this case, however, there is evidence that that sets the beneficiary apart from others in his field, such as evidence that he has reviewed a substantial number of papers, received requests from several conferences and journals, and served on the Editorial Boards of at least two scholarly journals. This evidence is sufficient to demonstrate the beneficiary's international recognition as an expert in the field. For example, evidence contained in the record shows that the beneficiary has served on the Editorial Boards of *Cluster Computing* and *Reseaux et Informatique Repartie*. The record also contains letters indicating that the beneficiary was selected to serve as a panelist at the Institute of Electrical and Electronics Engineers (IEEE) International Conference on Network Protocols (2000) and as a Program Committee member for Colloque Francophone sur l'Ingenierie des Protocoles (2000). We further note that the beneficiary wrote the introductory editorial piece for *Computer Communications: Special Issue on Multimedia Networking*.

We concur with counsel that the director erred in concluding that the evidence presented did not fulfill this criterion. Therefore, that portion of the director's decision is withdrawn.

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

We also withdraw the director's finding that the petitioner's evidence does not satisfy this criterion. The petitioner submitted evidence of the beneficiary's authorship of numerous articles appearing in publications such as *IEEE Communications Magazine*, *Principles Protocol*, *Computer Communications*, *Mobile Networks and Applications*, *IEEE Journal on Selected Areas in Communications*, and the *Software Engineering Journal*. Documentation contained in the record also shows that the beneficiary has authored several book chapters. Also submitted was evidence from a citation database showing that the beneficiary's published articles have garnered numerous independent citations.

When judging the influence and impact that the beneficiary's published work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the beneficiary's findings. In this case, however, the large number of citations of the beneficiary's published articles demonstrates widespread international interest in, and reliance on, his work. These citations show that many other computer communications scientists have acknowledged the beneficiary's influence and found his work to be significant.

In this case, we find that the evidence presented satisfies at least two of the regulatory criteria at 8 C.F.R. § 204.5(i)(3)(i).

The director's decision also questions the beneficiary's three years of teaching and/or research experience in the academic field. The regulation 8 C.F.R. § 204.5(i)(3)(ii) requires the petitioner to submit letters demonstrating "that the alien has at least three years of experience in teaching and/or research in the academic

field.” The director’s decision states: “One or more of the letters written in support of this petition indicate that the beneficiary...moved to a different area of research – wireless and mobile networking. That would mean that the beneficiary’s research prior to 1995 was in a somewhat different field.” After reviewing the record, we conclude that the beneficiary’s research in the area of wireless and mobile networking and the area of protocol engineering and conformance testing fall under the same academic field – electrical and computer engineering. Regardless, several of the letters offered in support of the petition indicate that the beneficiary has more than three years of research experience in each of these areas.¹

The director correctly notes that some of the letters written in support of the petition “are virtually identical (word for word).” It is highly improbable that the authors of those letters independently formulated the exact same wording. We agree with the director that [REDACTED] and [REDACTED] did not independently choose the wording of significant portions of their letters, but it is acknowledged that these individuals have lent their support to this petition. While the identical passages may detract from the overall weight given to their letters, we withdraw the director’s conclusion that those passages “cast doubt on [the letters’] authenticity and upon the information contained in the letters.”

For the above stated reasons, the petitioner has overcome the stated grounds for denial and thereby 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. The appeal is sustained and the petition is approved.

¹ This conclusion is also supported by the beneficiary’s extensive publication record.