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U.S. Citizenship  
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Services

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FILE: EAC 04 033 51994 Office: VERMONT SERVICE CENTER Date: **JUL 15 2005**

IN RE: Petitioner:   
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Mari Johnson*

*RP* Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office 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 in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(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 into the United States will substantially benefit prospectively the United States.

The applicable regulation defines the statutory term "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). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.*

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences engaged in pharmaceutical research. The petitioner submitted supporting documents including ten recommendation letters, evidence of 12 articles he co-authored that were published in scientific journals, documentation of his participation in two scientific conferences, copies of his academic degrees, a copy of his "outstanding paper award," a document related to a patent application of which the petitioner is listed as a co-inventor, and an electronic mail message requesting the petitioner to review manuscripts for a scientific conference. The director noted the petitioner's accomplishments, but found the record did not demonstrate that the petitioner had earned the sustained acclaim requisite to classification as an alien with extraordinary ability. On appeal, counsel submits a brief, the petitioner's curriculum vitae, and copies of four articles co-authored by the petitioner. Three of these articles were published after the petition was filed and consequently cannot be considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the

petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971).

We first note counsel's claim (made on pages two to three of his appellate brief) that "the Vermont Service Center, in implementing its decision to NOT issue RFE's [sic] is simply denying all petitions, like this one with boilerplate letters. . . . This new policy of Vermont's of sacrificing consideration of the merits of each case for the expediency of decreasing processing times is both illegal and immoral." Counsel discounts the director's review of the supporting evidence for this petition as discussed in her decision. Although 8 C.F.R. § 103.2(b)(8) requires the director to request additional evidence in instances "where there is no evidence of ineligibility, and initial evidence or eligibility information is missing," the director is not required to issue a request for further information in every potentially deniable case. If the director determines that the initial evidence supports a decision of denial, the cited regulation does not require solicitation of further documentation.

Furthermore, even if the director had committed a procedural error by failing to solicit further evidence. The petitioner has in fact supplemented the record on appeal and the AAO has considered all the evidence in reaching a decision. Therefore it would serve no useful purpose to remand the case simply to afford the petitioner the opportunity to supplement the record with new evidence.

Counsel's remaining contentions, the evidence submitted and the director's decision are addressed in the following discussion of the regulatory criteria relevant to the petitioner's case.

*(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The director correctly determined that the petitioner did not meet this criterion. The petitioner submitted a copy of a certificate that reads: "American Association of Pharmaceutical Scientists[,] Outstanding Paper Award[,] Eastern Regional Meeting June 22-23, 2000 [.] Presented To [REDACTED] on page four of his initial brief, counsel described this certificate as an "Excellent Student Poster Award," but the record did not include a copy or abstract of the petitioner's winning paper or any documentation of the significance of this honor or its national or international recognition as a prize or award for excellence in the petitioner's field. Accordingly, the director stated, "[a]n academic award, such as the Excellent Student Poster Award described by the attorney is not considered to be evidence of sustained national or international acclaim. The Outstanding Paper Award . . . has not been described in terms of its significance as a nationally or internationally recognized prize."

On appeal, counsel first claims that "[v]ery clearly, this type of documentation has to be solicited via an RFE." There is no need to issue an RFE when the evidence needed is explicitly stated in the regulation. We would expect counsel to be familiar with the language of this regulatory criterion as an attorney who (on page one of his appellate brief) claims to have been representing petitioners and beneficiaries under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), for over a decade. Yet on appeal counsel merely states:

Assuming that it is not national is not an option. The award should be taken on face value. In fact, we would be hard put to know what other documentation to provide. Most people in academia know that "Best Poster Award" means that the winner had the best poster at a conference. The conference was the AAPS (American Association for Pharmaceutical Science) annual meeting. You would have to be pretty dense to assume that something called the "American Association" wasn't a national

organization. This was an award given at national conferences, as clearly shown in the documentation and was based on presentations, not academic achievement.

First, the burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Furthermore, as noted in our preliminary discussion on page two, counsel is concerned that “non-technical lay people are making decisions about highly advanced scientists,” yet he nonetheless assumes that the director would have the same understanding about this type of award as “most people in academia.” Second, counsel’s comments reflect that he himself has not carefully read the submitted evidence. The petitioner’s certificate states that it was awarded at the Eastern Regional Meeting of AAPS. If “taken on face value,” as urged by counsel, the award is regional, not national. Counsel also cryptically refers to “conferences” and “presentations” in the plural. The record contains evidence that the petitioner participated in two other scientific conferences, but only received one award at the 2000 AAPS Eastern Regional Meeting.

We note that the petitioner’s curriculum vitae submitted on appeal suggests, but does not establish, that this award was granted for a paper entitled “The Expression Patterns of PPAR and RXR Isoforms in the Rat Developing and Human Placentas.” Yet the submitted certificate does not identify the paper for which the petitioner was honored. This omission, along with the lack of any evidence regarding the selection criteria and significance of the petitioner’s honor, prevents the award from meeting this criterion.

*(iii) Published material 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.*

Although the petitioner submitted no evidence relevant to this criterion, the director briefly discussed the petitioner’s publications and support letters as evidence under this category and concluded that “[t]he record contains insufficient evidence that others have cited the beneficiary’s work to a degree that would be indicative of his claimed sustained national or international acclaim.” In fact, the record contains no evidence that other researchers in his field have cited the petitioner’s publications. The director’s error has not prejudiced the petitioner, however, because he submits no evidence relevant to this category and consequently does not meet this criterion.

*(iv) Evidence of the alien’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The petitioner submitted an electronic mail message from his former doctoral supervisor requesting him to review abstracts for the 2004 National Biotechnology Conference, but no evidence that he complied with the request and actually reviewed abstracts for the conference. The director correctly stated that the record contained no evidence of the petitioner’s judgment of the work of others in his field. On appeal, counsel concedes that “[t]his was not a category where significant evidence was offered.” Accordingly, the petitioner does not meet this criterion.

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

The director addressed the petitioner’s support letters and publications and correctly determined that they did

not evidence his eligibility under this criterion. On page five of his appellate brief, counsel claims that the director “IGNORES the primary evidence of original scientific contributions, the publications and conference presentations, ignores the secondary evidence, the letters, and even the conference award that petitioner won and reverts to a boilerplate blather that is now appearing in every Extraordinary denial” (emphasis in original). Counsel also takes issue with the director’s comment that “[i]t is generally expected that an individual whose accomplishments have garnered sustained national or international acclaim would have received recognition for his accomplishments well beyond the circle of his acquaintances, especially in view of the extremely restrictive immigrant category that has been requested.” On page seven of his appellate brief, counsel contends that “[r]equiring evidence that pre-existed the preparation of the petition is an ad hoc requirement that as [sic] no basis whatsoever in either the statute or the case law. It is, in fact, utter nonsense, and only an excuse for the Service examiner not to have to read the actual evidence that was provided. . . . The made-up law and bypassing of obviously probative evidence is unconscionable, and if sustained by the AAU, will certainly result in Federal Action.” Counsel misconstrues the director’s decision and his threat of federal litigation is needlessly inflammatory.

The petitioner submitted ten recommendation letters from his current and past supervisors, colleagues and other scientists in his field who are familiar with his research. While such letters provide relevant information about an alien’s experience and accomplishments, they cannot by themselves establish the alien’s eligibility under this criterion because they do not demonstrate that the alien’s work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has sustained national or international acclaim. We recognize, as noted by counsel on pages six and seven of his appellate brief, that top researchers in a given specialty often meet at scientific conferences and are familiar with each others’ work. We are not discounting the petitioner’s recommendation letters because the authors know the petitioner or are familiar with his research. Rather, we review the letters as they relate to other evidence of the petitioner’s contributions. As counsel himself acknowledges, the letters are “secondary evidence” of the petitioner’s contributions whereas his publications and conference presentations are “primary evidence” of his eligibility under this criterion.

The record indicates that prior to his arrival in the United States, the petitioner was employed in the Department of Pharmacology within the Institute of Basic Medical Science at the Chinese Academy of Medicinal Sciences in Beijing. Only one recommendation letter mentions the petitioner’s previous work in China. Dr. Gregory T. Knipp, Assistant Professor of Pharmaceutics and the petitioner’s doctoral advisor at Rutgers University, states that the petitioner had “a considerable reputation as a research scientist in China, where he had published some important papers in the field [of] postmenopausal osteoporosis.” The record contains copies of nine articles (and their English abstracts) co-authored by the petitioner that were published in Chinese scientific journals from 1998 through 2000. The petitioner is the lead author of one of these articles. The record contains no evidence that these articles have been widely cited by other researchers or otherwise recognized as documenting contributions of major significance to this field in a manner reflective of sustained national acclaim in China or international acclaim abroad.

As stated by Professor Knipp, the petitioner began his doctoral studies at Rutgers University in 1998 and joined Professor Knipp’s laboratory in 1999. Professor Knipp explains that the petitioner’s “work in [his] laboratory began by investigating the expression patterns of proteins that regulate essential fatty acid transfer across the placenta from the mother to the fetus. . . . [The petitioner’s] research revealed important patterns of expression

of several proteins that can be utilized as therapeutic targets to correct placental fatty acid transfer where there may be a detrimental effect on fetal development. In particular, these studies were performed for future work on investigating the role of LCFA [long-chain fatty acids] transport across the placenta and fetal neurological development. This work was published in the journal *Placenta*, which is the highest-ranking journal in the placental research field.” Other letters attest to the importance of this research. Dr. Thomas J. Cook, Assistant Professor of Pharmaceutics at Rutgers who co-authored one of the other submitted articles with the petitioner, also notes that the petitioner’s work was published in *Placenta*. Dr. Shi Liu, Senior Scientist at the U.S. Environmental Protection Agency (EPA), explains that the petitioner’s “work has demonstrated the regulation mechanism of fatty acid transport in placenta and the original work was published in the journal ‘*Placenta*.’” Dr. Liu opines that “[t]his work clearly meets the standard of national importance required for the National Interest Waiver,” (suggesting that his letter was written to support a petition filed under section 203(b)(2)(B) of the Act, 8 U.S.C. § 1153(b)(2)(B), rather than this petition).

The record contains a copy of the article referenced in the letters, which is titled “Expression of PPAR and RXR Isoforms in the Developing Rat and Human Term Placentas.” The petitioner is the lead author of this article that was published in 2002 in *Placenta*. Yet the record is devoid of any evidence that this article has been widely cited or otherwise recognized in the petitioner’s field as a major contribution. We note that the record suggests, but does not establish, that the petitioner received the “Outstanding Paper Award” at the AAPS Eastern Regional Meeting in 2000 for a manuscript based on this research.

Professor Knipp explains that the petitioner’s subsequent research as a doctoral student “focused on one potential protein-Fatty Acid Translocase (FAT/CD36), which is believed to play a major role in the onset of atherosclerosis and diabetes. . . . [The petitioner] established several FAT/CD36-transfected cell lines to characterize LCFA transport in *in vitro* models. His results clearly indicated that FAT/CD36-positive cells had significantly higher LCFA uptake than cells lacking FAT/CD36.” Professor Knipp states that, based on the drug development potential of this work, “we have already filed a patent on one mode of therapeutic intervention with several other provisional patents now in the planning stages,” that “four drafts of manuscripts . . . have been prepared and are planned for publication,” that “an invited review was extended to us from the Journal of Pharmaceutical Sciences based on these studies,” and that he is currently preparing a “NIH grant submission on the gastrointestinal transport characterization of fatty acid transporters.”

Other letters also discuss the significance of the petitioner’s work in this area. Professor Cook affirms that the petitioner’s work “has expanded our understanding of fatty acid uptake and consequent utilization in drug development. These investigations are fundamental to the identification process of the lipid metabolism and/or target for obesity and diabetes. This research could progress to the point were [sic] we are able to apply that knowledge to the development of effective clinical treatment with implications for human health via dietary interventions.” Dr. Brian Gray, Vice President of Chemical Research at PTI Research Incorporated explains that he first met the petitioner as a graduate student at Rutgers and claims that his “broad knowledge of cellular as well as molecular biology place him in the top tier of research scientists in the field of xenobiotics/endobiotics transport processes, specifically in the field of fatty acid translocase (FAT/CD 36) and the mechanism by which FAT/CD36 functions.” Dr. Gray notes three significant accomplishments of the petitioner’s work in this area: “(i) understanding the fundamentals by which fatty acids are transported, (ii) establishment of new *in vitro* cell models for further investigation, and, (iii) casting new light on drug development to block unnecessary fatty acid uptake, which is directly related with hypertension and cardiovascular diseases.” A. Scott Mathis, a clinical pharmacist and researcher at the Saint Barnabas Medical Center in New Jersey, explains that he met the petitioner through his collaboration with the petitioner’s doctoral supervisor, Professor Knipp. Mr. Mathis

states that his "primary interest is on the development of atherosclerosis and diabetes after transplantation. Through work stimulated by Dr. Wang's research program, Dr. Knipp and I have been able to show that the immunosuppressive agents affect CD36 and related receptors." Mr. Mathis also notes that the petitioner is "generally considered to be one of the most knowledgeable people in the world on fatty acid uptake." The importance of the petitioner's work and his expertise in this area is similarly discussed in the letters of Dr. Susan Bogdanowich-Knipp, Associate Principal Scientist at the Schering-Plough Research Institute; Dr. Jay Zhang, an Investigator at GlaxoSmithkline; and Dr. Bo Zhou, Chief Executive Officer of Precursor Chemicals Incorporated, a company involved in basic research of chemical compounds synthesis.

The record contains little corroborative evidence of the claimed significance of the petitioner's work on fatty acid uptake. The record contains a copy of just one article related to the petitioner's work in this area, entitled "Spatial Expression Patterns of Peptide Transporters in the Human and Rat Gastrointestinal Tracts, Caco-2 *In Vitro* Cell Culture Model, and Multiple Human Tissues." The petitioner is a co-author of this article that was published in 2001 in a journal, which is only identified as "AAPS *Pharmsci*." The record also contains evidence that the petitioner was the lead author of a paper entitled "A Novel Method to Delineate the Long-Chain Fatty Acid Mediated Uptake by Fat/cd36" that was presented as a poster at the 2003 AAPS Annual Meeting. However, the record is devoid of any evidence that the petitioner's poster presentation or his co-authored article have been widely cited or otherwise recognized as major contributions to his field.

The record also contains a document from the Rutgers University Office of Research and Sponsored Program, which appears to summarize the patent application referred to in Professor Knipp's letter. The petitioner is listed as a co-inventor. The record contains no evidence that this patent has been granted or that the documented invention has otherwise been recognized as a major contribution to the field. Even if the patent had been awarded, it alone would not meet this criterion. To establish eligibility under this category by virtue of patents, a petitioner must not only show that his work has been granted a patent, but that the patented invention constitutes a scientific contribution of major significance in his field. As our office has stated, the significance of the patented invention must be determined on a case-by-case basis. *See Matter of New York State Dep't. of Transp.*, 22 I&N Dec. 215, 221 n.7 (Comm. 1998).

On appeal, the petitioner submitted the author proof of an article entitled "Expression of PPAR and RXR Isoforms and Fatty Acid Transporting Proteins in the Rat and Human Gastrointestinal Tracts" of which the petitioner is the lead author. This article is apparently in press at the *Journal of Pharmaceutical Sciences*, but was not published at the time of filing. Consequently, it cannot be considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49.

The record also does not corroborate the claimed significance of the petitioner's recent work at [REDACTED] a pharmaceutical research institution in Exton, Pennsylvania. Dr. Ismael J. Hidalgo, Chief Scientist at Absorption Systems, explains that he has known the petitioner since 2001 when the petitioner was a graduate student at Rutgers. Dr. Hidalgo states that "[s]ince joining our organization, [the petitioner] has been trying to construct a series of *in vitro* cell models with over-expression of multi-drug resistance-associated proteins. . . . Based on the preliminary results of his work, we submitted [a] grant . . . to the National Health Institute."

The record contains a copy of an article entitled "Cryopreserved Human Hepatocytes as Alternative *In Vitro* Model for Cytochrome P450 Induction Studies" of which the petitioner is a co-author that was published in the July/August 2003 edition of *In Vitro Cellular and Developmental Biology - Animal*. The record documents that

the petitioner was the co-author of a paper presented as a poster at the 2003 AAPS Annual Meeting and the sole author of a paper presented at the "ISSX 12<sup>th</sup> North American Meeting" in October 2003. Yet the record is devoid of any evidence that the petitioner's conference papers or journal article have been widely cited or otherwise recognized in his field as documenting major contributions. On appeal, the petitioner submitted proofs of two articles concerning his recent research that are apparently in press for two scientific journals, but were not published at the time of filing and consequently cannot be considered. Again, the petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49.

In sum, the evidence indicates that the petitioner's work is well regarded by the authors of his recommendation letters, but the value they impart to his research is not borne out by corroborative documentation. The petitioner has submitted copies of nine articles published in Chinese scientific journals. The record is devoid of any evidence that these articles have been widely cited or otherwise recognized as documenting major contributions to the field and only one of the petitioner's recommendation letters briefly mentions the work he conducted in China. After his arrival in the United States the petitioner published two articles in scientific journals concerning his doctoral research. The petitioner is the lead author of one of these articles. As previously mentioned under the first criterion, the petitioner also won an "Outstanding Paper Award" for an unidentified portion of his graduate work that was presented at a regional scientific conference in 2000. The record contains a copy of one additional journal article co-authored by the petitioner concerning his subsequent research at Absorption Systems. The petitioner has also presented three papers concerning his graduate and subsequent work at two scientific conferences. However, the record is devoid of any evidence that the petitioner's articles or conference papers have been widely cited or otherwise recognized as making major contributions to his field in a manner reflective of sustained national or international acclaim. Accordingly, the petitioner does not meet this criterion.

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

The director correctly determined that the petitioner did not meet this criterion. On appeal, counsel contends that the director's decision "is truly an atrocity. Given the plain English meaning of the statutory requirement, a petitioner qualifies here if he has TWO PUBLICATIONS. This examiner ignores the fact that the petitioner has 22." While it is true that the regulation imposes no numeric requirement on an alien's publications, we cannot ignore that frequent publication of research findings is inherent to success as an established scientist and does not necessarily indicate the sustained acclaim requisite to classification as an alien with extraordinary ability. For this reason, evidence of publications must be accompanied by documentation of consistent citation by independent experts or other proof that the alien's publications have had a significant impact in his field in a manner reflective of the requisite sustained acclaim.

In this case, the record shows that at the time of filing the petitioner had co-authored 12 articles published in scientific journals. He is the lead author of two of these articles. As previously explained, we cannot consider the evidence regarding the petitioner's subsequent three articles because they were not published at the time of filing. The petitioner must establish eligibility at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49. The record documents the petitioner's presentation of three papers at scientific conferences, but there is no evidence that these papers have been published. Hence, the record does not support counsel's claim that the petitioner has 22 publications. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do

not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The record is devoid of any evidence that the petitioner's journal articles have been consistently cited or otherwise recognized as particularly significant by other researchers in his field. Consequently, the petitioner does not meet this criterion.

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

The director correctly determined that the petitioner did not meet this criterion. On appeal, counsel contends that the director "essentially ignores the fact that both Rutgers University and Absorption Systems are distinguished institutions, and that the petitioner was and is a leading researcher at each of them. . . . His standing at these two institutions was, of course ignored. . . . There are prior decisions that state CIS cannot presume expertise in a field where they obviously have none. Recent decisions from CIS, including this one are flaunting the law, and making a travesty of our immigration process, violating 5<sup>th</sup> Amendment Due process [sic], and putting expediency above duty." Counsel substitutes inflammatory comments for sufficient documentation of the petitioner's eligibility under this criterion.

To meet this criterion, a petitioner must establish the nature of the alien's role within the entire organization or establishment and the reputation of the organization or establishment. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of that section independent of the organization itself. No such documentation was provided in this case. Although Professor Knipp explained the value and importance of the work performed by the petitioner as a doctoral student in his laboratory, he did not state that the petitioner played a leading or critical role in his laboratory or for Rutgers University as a whole. Professor Cook also did not describe the petitioner as having such a role, rather he simply noted that the petitioner "demonstrated leadership skills" as a graduate student at Rutgers. Moreover, the petitioner is the lead author of only one published article concerning his graduate work at Rutgers and the record contains no evidence that this publication earned recognition of the petitioner as a critical or leading figure at Rutgers. The record is also devoid of any independent evidence that Professor Knipp's laboratory, the Department of Pharmaceutics, or the School of Pharmacy within Rutgers University have distinguished reputations.

The evidence is also insufficient to establish the petitioner's eligibility by virtue of his present position at [REDACTED] Dr. Bruce Aungst, Director of Biopharmaceutics and Drug Transport at [REDACTED] explains that the petitioner "fills a key role in carrying out the research projects undertaken at [REDACTED] . . . [REDACTED] recruited him because of his unique abilities to perform pharmaceutical research and development investigations." Dr. Hidalgo, Chief Scientist at Absorption Systems, describes the petitioner as "a top-flight researcher and one of the foremost experts in multi-drug resistance-associated proteins research in the world. This is why we recruited him to work for our company." However, neither Dr. Aungst or Dr. Hidalgo state the petitioner's exact position at their company or describe specifically how the petitioner's work places him in a crucial or leading role. At the time of filing, the petitioner had co-authored just one published article and presented two conference papers regarding research performed at [REDACTED] The record contains no evidence that these manuscripts garnered recognition for the petitioner as a leading or critical figure at [REDACTED] In addition, the record contains no independent evidence that Absorption Systems has a distinguished reputation. Accordingly, the petitioner does not meet this

criterion.

*(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The director correctly determined that the petitioner did not meet this criterion. The petitioner's Form I-140 lists his weekly wages as \$1,202. Dr. Hidalgo states that [REDACTED] is paying the petitioner "a total benefit package worth six figures." Yet the record contains no documentation of the petitioner's income or evidence that his salary is significantly higher than other researchers in his field employed by private companies or comparable to researchers at the very top of his field. Rather than provide such documentation on appeal, counsel simply quotes the director's statement that beyond the brief comments of counsel and Dr. Hidalgo, "no information regarding compensation has been furnished." Counsel responds, "Duh! When I read stuff like this, I really wonder about my fellow Americans." Counsel then cites Dr. Hidalgo's letter as sufficient evidence. However, the record is devoid of any primary evidence of the petitioner's salary or documentation that his compensation is significantly higher than that of other researchers similarly employed or comparable to researchers at the very top of his field. Going on record without supporting evidence is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of Calif.*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Accordingly, the petitioner does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his field. The evidence in this case indicates that the petitioner has made valuable contributions to pharmaceutical research, but the record does not establish that the petitioner has achieved sustained national or international acclaim as a scientist placing him at the very top of his field. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his 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.