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**U.S. Citizenship
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FILE: [REDACTED]
LIN 07 013 52164

Office: NEBRASKA SERVICE CENTER

Date: **MAY 29 2008**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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

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 in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). More specifically, counsel asserts that the evidence of record satisfies the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(ii), (iv), (v), (vi), and (viii).

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 into 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, 60898-99 (Nov. 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 October 16, 2006, seeks to classify the petitioner as an alien with extraordinary ability as a research engineer. At the time of filing, the petitioner was working as a research engineer for J. Ray McDermott Engineering in Houston, Texas. The petitioner earned a Ph.D. in Civil Engineering from Rice University in May 2006.

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, internationally 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 May 20, 2006 letter from D [REDACTED], Professor of Civil and Mechanical Engineering, Rice University, stating that the petitioner received a "best graduate student award in Civil Engineering for the year 2006." [REDACTED]'s letter further states that this award "is the highest merit award to a graduate student in civil engineering at Rice University." Recognition for achievement as a student does not constitute the petitioner's receipt of a nationally or internationally recognized prize or award for excellence in the field of endeavor. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. The preceding award reflects institutional recognition in an educational setting rather than national or international recognition for excellence among research engineers already working in the field. Competition for this academic honor was limited to graduate students enrolled in Rice University's Civil Engineering program. The petitioner's receipt of an award limited by its terms to students is not an indication that he "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). A graduate student award may place the petitioner among the top students at his university, but it offers no meaningful comparison between him and engineering professionals who have already established themselves in the field.

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, a 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, proficiency certifications, 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 “student” membership in the American Society of Civil Engineers (ASCE), the American Society of Mechanical Engineers (ASME), and the American Institute of Aeronautics and Astronautics (AIAA). The petitioner also submitted a certificate stating that he was “initiated a member of Chi Epsilon by the Rice University Chapter of Chi Epsilon, the National Civil Engineering Honor Society” in 2004.

The petitioner’s initial submission also included a document entitled “ASCE Structural Health Monitoring and Control (SHMC) Committee Meeting.” Counsel argues that the petitioner’s membership on this ASCE SHMC committee meets this regulatory criterion. The minutes from this June 1, 2005 meeting reflect that the petitioner was among 19 individuals in attendance. The minutes further state that the meeting was chaired by Dr. Nagarajaiah, the petitioner’s Ph.D. supervisor at Rice University, and that the “chair invited everybody present to become members of the SHMC committee.”

In response to the director’s request for evidence, the petitioner submitted a January 10, 2007 letter from Dr. [REDACTED] stating:

This letter is to address the criteria to select [the petitioner] as a member of . . . the ASCE Structural Health Monitoring Committee.

The Structural Health Monitoring and Control Committee (SHMC) belongs to the Engineering Division of the American Society of Civil Engineering (ASCE).

* * *

The technical committee members are experts in the nation in the field of structural health monitoring, fault detection, and sensor technology. To be selected as a technical member of the SHMC committee, the candidate must have built his reputation through scientific publications in journals and conferences.

We cannot ignore that the petitioner was a “student member” of the ASCE in June 2005 and that his research supervisor invited him to become a member of the SHMC committee. Further, we cannot conclude that publication in journals and conferences is tantamount to outstanding achievements. The record includes no evidence (such as membership bylaws or official admission requirements) showing that SHMC committee participation and student membership in the ASCE, ASME, AIAA, and Chi Epsilon require outstanding achievements, as judged by recognized national or international experts in the petitioner’s field. Thus, 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. 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 submitted evidence showing that he reviewed a total of three articles submitted to the *Journal of Structural Engineering* in 2006. In response to the director's request for evidence, the petitioner submitted a January 25, 2007 letter from [REDACTED], Associate Editor, ASCE *Journal of Structural Engineering*,¹ stating:

To be selected as reviewers for *Journal of Structural Engineering*, the expertise of the candidate is the top priority to be considered. Only those who have built their names through scientific publications will be considered. The technical committees, who are the experts in . . . structural engineering, will recommend and evaluate potential candidates for reviewing the submitted papers. For each paper, two or three independent experts in the field will be selected to review it.

We cannot ignore that peer review is a routine element of the process by which articles are selected for publication in scientific journals. Occasional participation in the peer review process 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 professionals in the field who agree to review submitted papers. It is common for a publication to ask multiple 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 reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal in the same manner as professors Agrawal and Nagarajaiah, we cannot conclude that he meets this criterion.

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

As evidence that he meets this regulatory criterion, the petitioner submitted several letters of support. These letters discuss the petitioner's qualifications, activities in the field, patent applications, publications, presentations, and results from various research projects on which he worked, but they fail to establish that specific work attributable to him constitutes scientific contributions of major significance in his field.

[REDACTED], Senior Staff Consultant, J. Ray McDermott Engineering, states:

[The petitioner] has been assigned to the Research and Development group of J. Ray McDermott Engineering. He independently developed nonlinear finite elements for performing structural

¹ According to his resume, [REDACTED] has also served as associate editor for this journal.

analysis by incorporating a co-rotational method. [The petitioner] also incorporated a fiber model to enhance the material nonlinear analysis capability for the newly developed finite elements. By doing so, not only the structural global response and element reaction forces can be obtained, but also the stresses and strains for each element can be calculated. One of the most important applications for his developed method is for the static pushover analysis for offshore and onshore structures. . . . This full geometric and material nonlinear finite element analysis tool allows structural elements to experience loading damages due to yield, buckling, and denting, or even part of the structures to fail, while demonstrating that the overall integrity of the structures can be maintained. Those capacities are not available when using conventional elastic structural analysis.

* * *

[The petitioner] also is involved in the company's innovative floating structure research. With oil exploration and production having to be extended to deeper water frontier areas, the exploration facilities have become more complex and heavier. . . . [The petitioner] is the company's key structural engineer performing the structural analysis and optimized design of the new floating structures. Through extensive analysis, he has successfully reduced the structural weight without reducing the payload of the floating structure. He did extensive structural analysis using advanced software to ensure that the reliability, efficiency, and safety of the structure for exploration and production can be achieved. This is an on-going project.

* * *

In addition to the research and development work mentioned above, [the petitioner] also has participated in several engineering design and analysis projects involving offshore platforms. He performed an engineering analysis for the PEMEX platform installation projects and the Maersk Oil Qatar platform design and analysis. In the Maersk Oil Qatar project, he developed a computer model for the entire structure and analyzed the structural behavior under various environmental loads, such as wind, wave, and ship impact loads. He also performed the detail structural analysis and motion analysis to ensure that sufficient buoyancy capacity had been provided for the installation of the platforms. Clearly, [the petitioner] is a very efficient and knowledgeable engineer in the development and execution of actual and practical novel engineering applications.

While the petitioner has clearly earned the admiration of his employer, there is no evidence showing that the preceding work attributable to him has had a substantial impact beyond his company such that it can be considered original contributions of major significance in the field.

states:

From 2001-2005, [the petitioner] worked with me as a Ph.D. student and graduate research assistant on the intelligent structural system and nano-mechanical systems, supported by the Texas Institute of Intelligent Bio-Nano Materials and Structures for Aerospace Vehicles Currently employed as a Structural Engineer with J. Ray McDermott Engineering, located in Houston, Texas, [the petitioner] is an accomplished researcher in the fields of structural healthy monitoring and nano-mechanics. Due

to his innovative work, he has published nine journal papers in major international journals and seven international conference papers, with several additional journal and conference papers under preparation. He also jointly holds an international patent for smart material, and this patent was licensed by NanoRidge Materials Company in July, 2005. [REDACTED]'s contributions during this time can be summarized as: 1) the development of a novel physical realization method for analyzing structural damage detection, 2) the creation of new algorithms for detecting physical failures in realtime, 3) the establishment of a continuum model for a structural nanotube, 4) the proposal of nanofilm as a structure strain sensor, and 5) the study of the performance of based isolation building.

We acknowledge that the petitioner has made contributions to Rice University's intellectual property and that Nanoridge Materials, Inc., "a Houston-based start-up company," entered into a licensing agreement with the university in an effort to commercialize its technology, but there is no evidence establishing that the petitioner's work was of major significance to the field. The granting of a patent demonstrates only that the smart material developed by the petitioner and his superiors at Rice University ([REDACTED] and Dr. [REDACTED]) is original. Without evidence showing substantial commercial interest in the carbon nanotube film sensors, their widespread manufacture, or that they have otherwise risen to the level of contributions of major significance in the field, we cannot conclude that the petitioner's evidence meets this criterion.

An August 23, 2006 letter from [REDACTED] k Chaired Assistant Professor, Department of Mechanical Engineering, University of Houston, states:

I came to know [the petitioner] when he was a Ph.D. student at Rice University. In the spring of 2004, I offered a new course in the area of nanomechanics, in which [the petitioner] enrolled. He did such an outstanding job on his class project that it was later published in the prestigious international publication, *Journal of Applied Physics*, which reports on significant new results in applied physics and emphasizes the understanding of the physics underlying modern technology.

* * *

Apart from this collaborative work with myself, [the petitioner] has written some other very interesting articles that have been important to the advancement of nanotechnology and smart materials. He has done exceptional work in the application of nanotube films for strain sensor applications and published his findings in one of the leading international journals, *Advanced Materials*

* * *

[The petitioner's] work provides the theoretical and computational foundation for the mechanical analysis of material behavior at the nanoscale for nanotubes. His work also provide[s] important guidance for future nano-electronic research endeavors.

A January 23, 2007 letter from [REDACTED] submitted in response to the director's request for evidence states:

Defects in the nanotube technology have attracted the attention of many researchers around the nation, since various defects were found to have formed in the single nanotubes (CNTs), severely impacting their electronic and mechanical properties. [The petitioner's] research on this issue produced his paper, "Continuum field model of defect formation in single walled carbon nanotubes," which was published in *Journal of Applied Physics* and was the first paper to discuss the formation of Stone-Wales defects under external applied strain using dislocation concepts. Before [the petitioner] turned his attention to this problem, considerable efforts in the form of numerical atomistic simulations had been expended in investigating the mechanics of defect formation under applied strain, and analogous analytical efforts had been few in number. The numerical atomistic simulation can provide profound insight into the microscopic mechanics of defects under applied strain. However, the computation expense often precludes the extension of atomistic simulation to very large systems.

With his strong background in continuum mechanics and nanomechanics, [the petitioner] proposed that the Stone-Wales defect in the nanotube could be studied by using the dislocation concept. Using this concept, he developed a mathematically rigorous closed-form solution for applying critical strain to form the Stone-Wales defects. This work itself provides an important stand-alone explanation of the mechanics behind the formation of defects in the nanotube. More importantly, the method proposed by [the petitioner] can be applied directly to realistically large systems for which atomistic methods are computationally prohibitive. These research results of [the petitioner's] work were presented at the annual meeting of the Texas Institute for Intelligent Bio-Nano Materials and Structures for Aerospace Vehicles (TiiMS) This research was later selected for publication in *Virtual Journal of Nanoscale Science & Technology*. Only a few papers presenting significant results are selected for publication in this journal. This paper, in publication for less than a year, already has been cited at least five times by other researchers in this field.

The fact that this article has been cited demonstrates that others have found the petitioner's research to be useful, but simply providing useful and valid results is not tantamount to making contributions of major significance in engineering research. While the petitioner's Ph.D. research under the direction of professors [redacted] and [redacted] was no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or published research, in order to be accepted for graduation, publication, presentation, or funding, must offer new and useful information to the existing pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance in the field.

[redacted], Professor of Applied Mechanics, Emeritus, Stanford University, and former Editor-in-Chief of *International Journal of Solids and Structures*, states that the subject of the petitioner's article, "Nonlinear analysis of a SWCNT over a bundle of nanotubes," "is of great importance to the understanding of nanotubes, which is a topic of considerable and growing interest for application in a number of fields."

[redacted], Assistant Professor of Civil and Environmental Engineering, University of Michigan, states:

While I do not know [the petitioner] personally, I am very familiar with his many research contributions to the field of nanotechnology. . . . Specifically, I have closely followed his pioneering work in the area of carbon nanotube materials that are designed at molecular scales for various sensing applications. [The petitioner's] research, while at Rice University, explored the use of carbon nanotubes (a unique building block of the nanotechnology revolution possessing amazing mechanical and electrical properties) for measuring the strain response of smart structures. [The petitioner] is among the first to propose the design of strain sensors based on homogenous deposition of single walled carbon nanotube (SWNT) known as "buckypaper" rather than manipulating individual nanotubes. His thorough investigation in the highly coupled electrical and mechanical properties of a nanotube has led to a demonstration of the potential for SWNT-based materials in the design of sensors.

[The petitioner's] work has opened many new lines of technological exploration with many other international researchers widely citing his papers in this area. For example, his research results have been published in *Advanced Materials* and *Nanotechnology*, perhaps the two most influential journals in the material science fields. . . . It is important to note that besides his outstanding research in the SWNT-based sensors, [the petitioner] has contributed important and pioneering work in the field of structural health monitoring and nonlinear structural analysis. His research record is just as strong in these areas with 9 leading papers in the top structural engineering journals.

With regard to the petitioner's published and presented work and its citation by other researchers, such evidence is far more relevant 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 petitioner's published and presented work under the next criterion.

[REDACTED], Assistant Professor, Department of Mechanical Engineering, Dongguk University,² Korea, states:

During 2003 to 2004, I cooperated with [the petitioner] at Rice University in the intelligent systems funded by Texas Institute for Intelligent Bio-Nano Materials and Structures for Aerospace Vehicles (TiMS). . . . With [the petitioner's] strong research ability, outstanding scientific knowledge, and strong motivation for innovative research, our joint efforts moved forward rapidly and smoothly. [The petitioner] was the key person for the development of novel actuator failure detection algorithm, he made brilliant contribution to this project. Later he brought the method to a higher level: directly build the actuator failure detection function from input/output measurement without going through traditional system realization steps and make the method robust to the measurement noise.

This significant work was a key step toward model independent actuator failure detection and advanced this research field. It was published on [sic] *Journal of Guidance, Control, and Dynamics*,

[REDACTED] was a postdoctoral researcher at Rice University from 2003 to 2004.

one of the journals published by American Institute of Aerospace and Astronautic, the top one source for aerospace engineering. Due to [the petitioner's] innovative work, he was invited to present the novel actuator failure detection algorithm at the 2005 ASCE/ASME M[e]chanics and Materials Conference held in Baton Rouge, Louisiana. . . . By combining inverse model with interaction matrix formulation, [the petitioner] developed novel sensor failure detection algorithm to isolate and detect the examined sensor in real-time. This work was presented in the 2006 4th World Conference on Structural Control and Monitoring and a journal paper also was accepted by *Journal of Engineering Mechanics*, one of the top journal [sic] in Civil Engineering community.

* * *

[The petitioner] independently developed a novel physical realization method to fully recover the structural stiffness and damping matrices, the two most important factors for structural health monitoring, when only limited input-output measurements are available. His outstanding work has advanced the research field and is a critical contribution to the structural health monitoring field. When this method was applied for structural damage detection, it can pinpoint the location and quantify the damage level of each element even when limited measurement is available.

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. While the petitioner's work has earned the admiration of his superiors and collaborators such as [REDACTED] there is no evidence showing that it constitutes contributions of major significance in his field consistent with sustained national or international acclaim. In this case, a comparison of the petitioner's achievements with those of his references (such as [REDACTED] and [REDACTED] indicates that the very top of his field is a level above his own present level of achievement.

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 (Commr. 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 researcher who has sustained national or international acclaim. Without evidence showing that the petitioner's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of contributions of major significance, we cannot conclude 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 conference papers and of articles appearing in publications such as *Advanced Materials*, *Nanotechnology*, and *Journal of Applied Physics*. The petitioner also submitted evidence of dozens of articles that cite to his work. These citations demonstrate the significance of the petitioner's articles to the field. Therefore, the petitioner has established that he meets 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.

On appeal, counsel states:

[The petitioner] is a member of the Structural Health Monitoring and Control Committee, a standing committee in the Engineering Mechanics Division of the American Society of Civil Engineers (ASCE). . . . The critical stature of this committee is emphasized by its permanent status as a standing committee, and [the petitioner's] membership as one of only twenty-two committee members reflects the leading role that he performs.

While the petitioner's appellate submission includes general information about the ASCE as posted on its internet site, there is no evidence showing that the SHMC committee has a distinguished reputation. Nor is there evidence showing how the petitioner's role on the SHMC committee differentiated him from other committee members, let alone its more senior members such as I [REDACTED] (the committee chair), Erik [REDACTED] (the vice-chair), or [REDACTED] (associate editor).

With regard to the petitioner's role at Rice University, the record adequately demonstrates that this educational institution has a distinguished reputation, but there is no evidence demonstrating that the petitioner's role as a student was leading or critical to the university. Further, the record includes no evidence showing that J. Ray McDermott Engineering has a distinguished reputation or that the petitioner's role as research engineer was equivalent to performing in a leading or critical role for the company. For example, there is no evidence distinguishing the petitioner's role from that of other engineers employed by the company or its more senior management.

There is no evidence demonstrating that the petitioner was responsible for the success or standing of the preceding organizations to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. As such, the petitioner has not established that he meets this criterion.

In this case, we find that the petitioner meets only one of the regulatory criteria, three of which are required to establish eligibility. 8 C.F.R. § 204.5(h)(3). 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 sustained national or international acclaim necessary to qualify as an alien of extraordinary

ability. The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

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.

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.