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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **JUL 10 2009**
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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:

SELF-REPRESENTED

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petition 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 the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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

(1) Priority Workers. – Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. – An alien is described in this subparagraph if –

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and the legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (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 has 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 April 30, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a research scientist. 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 of the criteria outlined in 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 that, he claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).¹

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

The petitioner claims to meet this criterion based on his receipt of the Science and Technology Advancement Award in 1990, the Outstanding Young Faculty Award in 1992, and the National Science Award in 1994. We note that the translations accompanying the supporting documents, although certified and notarized as complete and accurate in accordance with 8 C.F.R. § 103.2(b)(3), are translated by the petitioner. In response to the director's request for evidence (RFE) dated March 7, 2008, the petitioner submitted a letter from [REDACTED] "verifying" the petitioner's translations. However, [REDACTED] does not certify his interpretation of the petitioner's work. Accordingly, the evidentiary value of these translations are lessened.

1. The Science and Technology Advancement Award. The petitioner submitted a copy of a certificate indicating that in February 1989, he received a 3rd place Science and Technology Advancement Award granted by the Forestry Ministry of China. The certificate of award was issued by the Beijing Forestry University (BFU) on June 13, 1990. The petitioner also stated that the award was a group award won by members of the project team, and that BFU issued certificates to "principal individual researchers." The petitioner alleges that the award "is one of the most prestigious national awards in the fields related to forestry in China." The petitioner submitted no documentation verifying his statements, particularly the prestigious nature of the award. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

2. The Outstanding Young Faculty Award. The petitioner submitted a September 17, 1999 unsigned letter from the Office of Academic Research Administration at BFU. The letter verified that the petitioner was a 1992 recipient of the Outstanding Young Faculty Award in the "research category with funding" from the Fok Ying Tung Education Foundation. According to the letter:

[The foundation] was established . . . to reward young (age under 40) professors in Chinese higher education institutes whose research achievements has [sic] gained national and international recognition or who has excellent performance in teaching. This award is the most prestigious award to the very top young professors in Chinese higher education system. The award is also open to overseas young Chinese scientists who have made extraordinary contributions to science and achieved international recognition in his or her field.

The letter also indicates that the award received by the petitioner "includes [a] monetary reward to the recipient and funding to a research project proposed by the recipient and approved by the foundation." The letter indicates that the foundation announced the name of the recipients, which consisted of 81 individuals in the category that included the petitioner, in a press release and major Chinese media reported the results.

The petitioner submitted copies of newspaper articles that he stated were about the award and therefore established its prominence. The translations accompanying the information from the March 29, 1992 editions of the *People's Daily* and *GuangMing Daily* are only partial translations, showing only the individuals listed at number one and the petitioner's name listed at number 55. Additionally, the petitioner provided no translations for a document he stated was a recipient list printed from the Foy Ying Tung Foundation website and articles he stated were printed in other publications, including the June 1, 1992 editions of *People's Daily*, *GuangMing Daily*, *Beijing Daily* and *Worker's Daily*, among others. The documents therefore do not comply with the terms of 8 C.F.R. § 103.2(b)(3), which provides:

Translations. Any document containing foreign language submitted to [USCIS] shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

The petitioner submitted a translation of the article that appeared in the June 1, 1992 edition of the *People's Daily Overseas*. The article indicated that the awards ceremony was attended by the Chinese President Yang Shangkun and Congress Vice Chairman Lei Jiequn. The article also indicated that 81 individuals received the Research Funding Award. In response to the director's request for evidence (RFE), the petitioner provided

copies of previously submitted documentation and a partial translation of the winners listed on the Foy Ying Tung Foundation website.

3. The National Science Award. The petitioner submitted another unsigned letter dated September 17, 1999 from the Office of Academic Research Administration of BFU. According to the writer, the petitioner was "one of the chief investigators and the project director for software design and development in a project entitled "Computer-based Decision Support System (DSS) for the Management of Pine Caterpillars in Forest Ecosystem." The letter indicated that this project received the National Science Award from the National Science and Technology Commission of China (NSTCC) and that the award ceremony was held in December 1994.

The petitioner submitted no documentation to establish that the Science and Technology Advancement Award or the National Science Award is a nationally or internationally recognized award for excellence in his field of endeavor. Further, the petitioner admits that these are group awards and that the BFU issued certificates to the individual participants. The evidence does not establish that the petitioner received or was recognized for either of these awards from the agencies making the awards. The plain language of this criterion requires the alien to document his or her own receipt of the award. Awards presented to a third-party or organization are not sufficient to establish eligibility under this criterion.

Regarding the Outstanding Young Faculty Award, the documentation indicates that the award is nationally recognized. However, the evidence also indicates that the award is limited to professors in Chinese higher education institutions who are under 40 years of age or other "young Chinese scientists who have made extraordinary contributions to science and achieved international recognition in his or her field."

Honors limited by their terms to a particular subset are not an indication that the recipient "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's receipt of such honors offers no meaningful comparison between him and experienced professionals in the field who do not work in Chinese higher education institutions or who are not Chinese.

Furthermore, section 203(b)(1)(A)(i) requires the petitioner to establish that he has achieved sustained acclaim. All of the awards that the petitioner claims he won were in the early 1990s, thirteen years prior to his filing of this visa petition, and are not consistent with sustained acclaim. On appeal, the petitioner asserts that "this time issue should [not] be a concern" in this case because at the time, he did not hold a Ph.D. degree and today he holds two, that he has contributed more than 60% of the academic papers published by the Computer Science Department at the University of Idaho, that his research "has been well recognized by academia and [the] engineering community," the quality of his research, that "sustained scholarship does not imply that there cannot be any interruption in one's career, as long as the beginning and ending are sustained," that his background spans three academic fields, and because of his publishing record.

The petitioner, however, does not explain how any of these factors apply to this criterion. We note that many of the examples he advances to explain the fact that he has not won any awards since 1994 are properly the subjects of other criteria and will be discussed further below. We note further that the Act does not require the petitioner to demonstrate "sustained scholarship" but rather "sustained acclaim."

The petitioner has failed to establish 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.

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

The petitioner provided a copy of an April 10, 1995 certificate of membership in Gamma Sigma Delta, an honor society in agriculture. The petitioner claimed to be a life member of this organization but provided no documentation to corroborate his life membership or that the organization requires outstanding achievements of its members.

The petitioner stated that from 1993 to 1997, he was a member of the Entomological Society of America and provided a partial copy of what he indicated was the 1996 membership directory for the organization, which included his name. The petitioner also claimed to be a member of the Ecological Society of China from 1987 to 1992, the Entomological Society of China from 1987 to 1992, and the Forestry Society of China from 1987 to 1992. Other than the Ecological Society, the petitioner submitted no documentation of his membership in these organizations. Without supporting documentation, the petitioner has not met his burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. The petitioner submitted a partial copy of a 1990 resolution passed by the Governing Board of Research Association of Young Ecologists of the Ecological Society of China. The resolution was accompanied by a partial translation showing the petitioner as a member of the board. The translation therefore does not comply with the provisions of 8 C.F.R. § 103.2(b)(3), which requires documents in a foreign language to be accompanied by full English translations. Most importantly, the petitioner submitted no documentation of the membership requirements of these organizations.

The petitioner also submitted copies of his professional certifications. The petitioner submitted no documentation to establish that a professional certification is membership in an organization. In his RFE, the director advised the petitioner that none of the documentation submitted relevant

to this criterion established his eligibility under 8 C.F.R. § 204.5(h)(3)(iii). In response, the petitioner stated that he agreed with the director's assessment and that he did not satisfy this criterion. Accordingly, the petitioner has failed to establish that he meets this criterion.

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.

In order to meet this criterion, published material must be primarily about the petitioner and be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of a significant national distribution.

The petitioner claims to meet this criterion based on the media coverage of his "academic awards," peer citations to his published work, and "library subscription of Chinese journals with international circulation."

As previously discussed, the petitioner submitted partial copies of translations listing the names of individuals who won the Outstanding Young Faculty Awards and one newspaper article reporting on the ceremony. However, none of these documents discuss the petitioner or his work. Further, the petitioner submitted no documentation to indicate that any of the publications are professional or major trade publications or other major media.

In response to the RFE, the petitioner resubmitted the documentation accompanied by a "verification" of his translations by [REDACTED], who provides no information regarding his competency to translate from Chinese to English. The petitioner submits no new argument on appeal. The evidence does not establish that the articles meet the criterion in that they are not about the petitioner or his work.

The petitioner also asserts that he meets this criterion based on the many citations by his peers to his published work. Articles that cite the petitioner's work are primarily about the author's own work and not that of the petitioner. As such, they cannot be considered published material about the petitioner. However, they will be considered under 8 C.F.R. § 204.5(h)(3)(v) and (vi) below.

The petitioner asserts that libraries in the United States, Britain, Australia, and New Zealand subscribe to several of the Chinese journals in which his work was published. The petitioner's published articles, discussed further below, are not articles about the petitioner or his work, and the fact that international libraries subscribe to certain journals that publish his work is not evidence of the international nature of published work about the petitioner.

The petitioner has failed to establish 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 petitioner claims to meet this criterion based on his election to the governing board of the Research Association of Young Ecologists of the Ecological Society of China, a position that he held from 1990 to 1992. However, the petitioner submitted no documentation to indicate that the duties of the governing board included serving as a judge of the work of others.

The petitioner submitted a document that he translated as the Editorial Board of the *Transactions of the Ecological Society of Chinese Youth*. The petitioner's partial translation also indicates that he was among 22 members of the editorial board. The translation does not comply with the provisions of 8 C.F.R. § 103.2(b)(3), which requires full translations of documents submitted in a foreign language. He also submitted what he stated was a 1991 "Certificate of Appointment" to the editorial board that he personally translated. The petitioner submitted no documentation to indicate that he actually performed editorial reviews in his capacity as a member of the board, and no documentation to indicate that membership on this editorial board is commensurate with sustained national or international acclaim in the field of science.

The petitioner submitted a copy of what he described as the cover page of a project technical report and stated that he was requested to provide advice and "invited to serve as the panel to appraise the group's project report." The petitioner indicated that the invitation was in a handwritten note dated December 30, 1990 but provided no documentation that he actually reviewed the report, or that an invitation to do so was based upon his sustained national or international acclaim in the field of science.

The petitioner also stated that he was invited to write reviews for "important textbooks published in the world" and that he published reviews of 17 books in "various peer-referred journals." The petitioner provided copies of documents that he stated were copies of these reviews. However, he failed to provide certified translations of the documents. Because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

The petitioner provided a copy of what he stated was a 1991 invitation to review a book and stated that he was invited to contribute "review papers" for "several prestigious journals." The petitioner submitted a copy of what he identified as a review paper, which appears to summarize the accompanying document but does not appear to provide an opinion of the work summarized.

In response to the RFE, the petitioner submitted copies of several e-mails regarding his review of manuscripts for the journals *Computers & Security* and *Scientific Journals International*. However, all of these e-mails are dated subsequent to the April 30, 2007 filing date of the petition. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8

C.F.R. 103.2(b)(1),(13); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Accordingly, reviews performed by the petitioner subsequent to the date this petition was filed cannot be considered in assessing his eligibility for the classification sought with this petition.

In denying the petition, the director noted that the evidence provided by the petitioner was dated in the 1990s or subsequent to the filing date of the petition. On appeal, the petitioner again argues that there is nothing in the regulation "that automatically excludes the evidence older than 10 years," that the evidence indicated that he became a member of the editorial board at a very young age, and that for the same reasons enumerated previously for evidence of his eligibility under 8 C.F.R. § 204.5(h)(3)(i), the evidence he submitted should be sufficient to establish his eligibility under this criterion.

However, as previously discussed, the petitioner must establish that he has achieved sustained acclaim. The petitioner submitted no documentation to establish that he performed or was invited to perform any review from 1992 through April 30, 2007, the filing date of his petition.

The petitioner has failed to establish 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.

The petitioner claims that his original contributions include:

1. Development of a computer-based decision support system for managing forest insect pests. The petitioner stated that his system was the second one of these programs to be developed in the world. He did not state how his system differs from that of the first one developed or submit any evidence to show that it was a major contribution to his field.
2. Proposal of a new theory of Population Aggregation Critical Density (PACD) for the spatial distributions of insect populations and development of a mathematical model for PACD based on Power Law. He stated that his "theory of PACD and corresponding mathematical model have become a standard methodology in the field of insect spatial distribution research." However, the petitioner submitted no documentation to corroborate his statement. *See Matter of Soffici*, 22 I&N Dec. at 165.
3. Development of a new modeling and simulation paradigm for insect population dynamics and demography. The petitioner stated that "[t]his work is well recognized as pioneering in the fields of entomology and ecology." The petitioner did not provide evidence to show that his "pioneering" effort was a contribution of major significance to his field.
4. Advancement of three new procedures for analyzing network intrusion detection data. The petitioner stated that his work in this area "solved some of the fundamental flaws in [the] existing statistic approaches widely used in intrusion detection." The petitioner

submitted no documentation to confirm his statement or to establish that this work was a major contribution to his field of endeavor. *Id.*

5. Introduction of a biologically inspired approach to Survivable Network Systems (SNS) and "mapping" of insect populations systems to wireless sensor and ad hoc networks and proposal of a theory of Phase Transitions in reliability, survivability and performability. The petitioner stated that this "set[s] the foundation for the introduction of Interactive Particle Systems (IPS), Percolation, Random Graphs, Survival Analysis and Swarm Intelligence theories into research of computer networks."
6. Pioneered research of chaos and catastrophe theories in the fields of reliability and insect population dynamics.
7. Invented the methodology of "fluctuation or dynamic populations" in evolutionary computation. The petitioner stated that his "research opens a new paradigm which improves computation efficiency by reducing computation time and memory allocation requirements." He also stated: "This advancement not only generates a new theoretic research direction, but also is of extreme significant impact to large-scale computation such as DNA sequencing and supercomputing."
8. Pioneered the application of survival analysis to network reliability and survivability. The petitioner stated: "Although I am the first researcher introducing SA into the field of network survivability, my most important innovation lies in my integration of SA with Scheduling theory and Game theory for optimizing network lifetime and survivability."

The petitioner submitted no documentation to corroborate the impact of his work in his field or to establish that any of his work was a contribution of major significance to his field. The petitioner also stated that he is in the process of developing a comprehensive set of methodologies for modeling the Phase Transition and Critical/Super critical phenomenon in mobile sensor and ad hoc networks. A petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8 C.F.R. § 103.2(b)(1),(13); *Matter of Katigbak*, 14 I&N at 49. Work that has not been completed is not evidence that the petitioner had made contributions of major significance to his field as of the filing date of this petition.

The petitioner provided several letters of reference and recommendation including a July 20, 2006 letter from [REDACTED] Dean of the College of Engineering at the University of Idaho (UI). [REDACTED] stated that the petitioner "has been exploring novel theoretic approaches for modeling and simulating survivability . . . with the very recent advances in Swarm Intelligence and Random Graph Dynamics theory." [REDACTED] did not indicate that the petitioner's work constituted a contribution of major significance to his field, but stated that "according to his academic advisor and other experts, [the petitioner's] current progress in his research foresees potentially very significant advancement to the modeling of network

survivability." A petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Id.*

██████████ Dean of the College of Agriculture and Life Sciences at Virginia Polytechnic Institute and State University, stated in a December 13, 2004 letter that he was Division Chair of Entomology at UI when the petitioner was an Entomology Ph.D. student. He stated that in his entomology Ph.D. dissertation "in the late 90's," the petitioner's "pioneering work greatly enriched the methodology of modeling and analysis of insect populations, and had solved some long standing analytical problems associated with traditional methods used in the area." He also stated that the petitioner's "new theoretical ecology from perspectives of "Survival Analyses" has resulted in a set of new general methods and models to analyze, model and simulate insect populations based on laboratory demographic studies." ██████████ did not state that these new methods and models constituted a contribution of major significance to the petitioner's field.

██████████ a professor of entomology at the University of Idaho, stated in a July 17, 2006 letter that the petitioner was his former student. He further stated:

[The petitioner] derived a modeling approach called the "same-shape distribution reproduction model." This model is a new procedure that allows researchers to account for variability in reproduction among individuals as a function of differing environmental conditions. His method is important because it provides a comprehensive, unified modeling framework that is compatible with existing stage-development models

Another original and significant contribution was his examination of insect population dynamics within the context of Cusp Catastrophe Theory, still yet another mathematical approach far beyond most entomologists. . . . As a consequence, his work not only advances the science of theoretical population analysis and modeling, but also has significant pragmatic applications for insect control by allowing us to accurately forecast pest intensity.

██████████, assistant professor at ENSIMAG/INPG Grenoble, also describes the petitioner's work as "significant." He writes in a January 3, 2005 letter:

In my opinion, [the petitioner] has done exceptional research and made significant original discoveries and contributions in the areas of modeling and analysis of network Intrusion Detection Systems (IDS), Survival Analysis of Biological/Ecologic Systems, Mathematical Ecology, as well as his ongoing dissertation research

[The petitioner] is the first computer scientist in the world who has proposed to approach the design of the Survivable Network Systems (SNS) from the viewpoints of ecology and biology. His approach is certainly one of the most

important new initiatives in the study of SNS because it opens a complete new arena and is very likely to generate a paradigmatic change in the field Another example of exceptional originality and creativity is the concept of "fault aggregation degree[.]" which [the petitioner] proposed for describing the distribution pattern of faults in a network system [He] is trying to develop a new set of models that can measure the aggregation of faults in a networked system, and establish the relationship between "fault aggregation" and survivability of the network system. From the fault aggregation model, he will try to find the critical point similar to his PACD in biology . . . which will be the breaking point of the network system.

[REDACTED], a professor in the Departments of Computer Science and Forest Resources at the University of Idaho, in a January 18, 2000 letter, also stated that the petitioner's "work is of great significance to both theoretical population ecology and practical value to forecasting pest population," and that the "scientific community has recognized this important work" which "has been presented at several academic meetings."

Researchers, to be successful, are expected to provide advances in their areas of research. While [REDACTED] and [REDACTED] describe the petitioner's work as "significant," this is not the same as stating that the petitioner's work was a "major contribution" to his field. Further, according to [REDACTED], the petitioner's work on "fault aggregation" has yet to yield results. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *See Id.*

Further, the above letters are all from the petitioner's collaborators and immediate colleagues. While such letters are important in providing details about the petitioner's role in various projects, they cannot by themselves establish the petitioner's national or international acclaim. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. USCIS 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, USCIS 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; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N at 165.

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. Evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with

sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

The petitioner also claims to meet this criterion based on his "[m]ore than 50 [published] peer-referred journal and conference papers," his authorship of "about 40 technical reports, book reviews etc.," and based on more than 700 citations to his published work. While the petitioner's research is 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 postdoctoral research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the 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 to the field as a whole.

The petitioner's field, like most science, is research-driven, and there would be little point in publishing research that did not add to the general pool of knowledge in the field. 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. To be considered a contribution of major significance in the field of science, it can be expected that the results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work. Additionally, the petitioner's published articles will be considered under the criterion discussed immediately below.

The petitioner has failed to establish 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.

In his letter accompanying the petition, the petitioner stated that he had published a text book, 30 peer refereed journal papers, 24 peer refereed conference papers, 17 book reviews, and 15 technical reports. The petitioner also indicated that he had submitted 10 articles for publication. The director determined that the petitioner meets this criterion. However, we withdraw the director's determination.

The petitioner submitted copies of articles that he stated that he authored. Many of these are in Chinese and while some are preceded by English abstracts, they are not accompanied by English translations. He also submitted what he stated were citation lists indexed by Google Scholar. However, the documents are in Chinese and either have no translation or are only partial translations provided by Google. As previously discussed, 8 C.F.R. § 103.2(b)(3) requires that documents submitted in a foreign language "shall be accompanied by a full English translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."

Because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

Further, duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself. As frequent publication of research findings is inherent to success as an established research scientist, publications alone do not necessarily indicate the sustained acclaim required for classification as an alien with extraordinary ability. Evidence of publications must be accompanied by documentation of consistent citation by independent research teams or other proof that the alien's publications have had a significant impact in his field.

In his RFE, the director acknowledged the citation list provided by the petitioner but noted that it was in Chinese. He instructed the petitioner to submit "either a certified translation or one that is already in English." In response, the petitioner submitted an April 15, 2008 letter from [REDACTED] who stated that he had reviewed the lists from Google, and that he has "very high confidence that the . . . lists contain the citations of [the petitioner's] publications only." In an April 16, 2008 letter, [REDACTED] a professor in the Computer Science Department at UI stated that he had reviewed the petitioner's "summary of the 'General List' and 'Case-Analysis list,' which clearly indicates the very significant impact of his work on his field." Nonetheless, the petitioner did not submit certified translations of the documents as required by the regulation. As the petitioner has failed to provide certified translations indicating that his publications have been consistently cited by others, we cannot determine the influence his publications have had on the research community.

The petitioner's evidence does not establish 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.

To meet this criterion, the petitioner must show that he performed a leading or critical role for an organization or establishment and that the organization or establishment has a distinguished reputation.

The petitioner claims to meet this criterion based on his work at the UI. The petitioner submitted documentation indicating that in 1999, the National Security Agency (NSA) designated UI as one of seven Centers of Academic Excellence in Information Assurance Education. A page from the website of the university's Center for Secure and Dependable Systems indicates that the designation was "revalidated" in 2004. The petitioner also submitted documentation indicating that UI had cloned the first mule. The evidence sufficiently establishes that UI, and specifically the Department of Computer Science and the College of Agriculture and Life Sciences, have a distinguished reputation.

The petitioner's role at UI was as a student, including Ph.D. studies in entomology and computer science. The petitioner submitted documentation regarding his research during his studies at UI, which was described by his references as "significant." At issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the position must be of such significance that the alien's selection to fill the position is indicative of, or consistent with, national or international acclaim. The petitioner stated that over 60% of the articles published by the Computer Science Department in 2008 at UI were his. However, he submitted no documentation to establish that his position as a student or researcher at UI was in a critical or leading role. Further, as the petition was filed on April 30, 2007, the petitioner's publication record in 2008 is not evidence of his eligibility for this immigration classification. The petitioner must establish eligibility for the visa petition at the time the petition was filed. See 8 C.F.R. § 103.2(b)(1),(13); *Matter of Katigbak*, 14 I&N Dec. at 49.

The petitioner also claimed that his position at BFU also qualifies him for this criterion. The petitioner submitted pages from the website of netbig.com, accessed on February 5, 2005, that provided a 2001 ranking of Chinese universities. The pages indicate that BFU was ranked as the number one forestry university based on faculty resources and was listed at number 58 based on academic reputation. These rankings alone are insufficient to establish that BFU enjoyed a distinguished reputation. An academic ranking, while important, is not conclusive evidence of the overall reputation of the institution, especially when BFU placed 58, along with six other universities, out of the 110 institutions ranked based on academic reputation.

The petitioner provided a letter that he translated indicating that he was selected from the recipients of the 1990 and 1991 Fok Ying Tung Foundation Awards to "receive special funding and support in research, teaching and living conditions." The petitioner stated that he was the only faculty member to receive this "special treatment." However, the petitioner did not state how this "special treatment" constituted a leading or critical role with BFU.

The petitioner submitted documentation regarding Tumbleweed Communications Corporation, a security software company. According to the petitioner, the company "barely survived [the] dotcom bust" and was eventually acquired by Microsoft. In a January 3, 2005 letter, [REDACTED], a senior director of information technology applications at UTStarcom, Inc., stated that Tumbleweed Communications Corporation "is a global leading security software company." He further stated that the petitioner's "exceptional talents and expertise played a vital role in the design, development, and implementation of Tumbleweed's industry-leading security software" and that he "designed, deployed, and managed Tumbleweed's flagship product 'IME' for important clients . . . as well as for Tumbleweed's own global production server." However, as noted, the petitioner submitted no documentation to establish that Tumbleweed was a company with a distinguished reputation. He also provided no documentation to corroborate Mr. Wu's statements regarding his role at Tumbleweed.

The petitioner also submitted a March 17, 2005 letter from [REDACTED], president of Silver Creek Software, Inc., in which he stated that his company "made a strategic and conscious

decision to research, port and test its major application software to the Linux platform," and that the petitioner "initiated and successfully accomplished the project largely [by] himself." The petitioner submitted no documentation to confirm [REDACTED] statements, to establish that Silver Creek Software, Inc. is an organization with a distinguished reputation or that his role at the company was in a leading or critical role.

The petitioner has failed to establish that he meets this criterion.

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

The petitioner initially claimed this criterion but withdrew his claim with his response to the RFE.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of his field of endeavor. Review of the record, however, 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. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) 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.