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U.S. Citizenship and Immigration Services

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[redacted]

IN RE: Petitioner:
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:

[redacted]

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.

John F. Grissom
Acting 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 sustained and the petition will be approved.

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).

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.

U.S. Citizenship and Immigration Services (USCIS) 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 25, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a research scientist. At the time of filing, the petitioner was working as a researcher in the Neurobiology Department at the Yale University School of Medicine.

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 a major internationally recognized award, the regulation at 8 C.F.R. § 204.5(h)(3) 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. We find that the petitioner's evidence meets at least three of the regulatory criteria.

> *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 evidence showing that he served as a Ph.D. thesis evaluation committee member for the University of Pittsburgh (2004), served on the Review Committee for the 14th Annual Computational Neuroscience Meeting (2005), reviewed several conference papers, and was requested to provide reviews for distinguished journals such as *Proceedings of the National Academy of Sciences of the United States of America*. Accordingly, the petitioner has established 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 submitted several letters of support discussing his original research contributions. We cite representative examples here.

[redacted] Professor, Department of Neurobiology, Yale University School of Medicine, states:

> Visual adaptation to the mean and contrast of input signal are widespread phenomena in visual systems, providing visual systems great flexibility to function under varying natural environments. Until recently, the computation principles and cellular mechanisms of these adaptive changes in cortical function have been difficult to examine. [The petitioner] developed a theoretical framework, which clarified the effect of the nonlinear spiking generation dynamics and the active adaptive control loop on the contrast adaptation. These results successfully explained several important experimental observations. His framework is important for both experimental and theoretical scientists to understand the origin of contrast adaptation.

[redacted], Walter Van Dyke Bingham Professor of Psychology and Cognitive Neuroscience, and Co-Director of the Center for the Neural Basis of Cognition, Carnegie Mellon University, states:

> [The petitioner] studied how different membrane conductance contributed to the electrical characteristics of a neuron, how neurons interacted to produce functioning neural circuits and how large populations of neurons represent, store and process information. His research results benefited neuroscientists in their attempt to understand more deeply how the single neuron and the network processes the input signals and translates them to neural information.

[redacted] Professor of Neuroscience, Rutgers University, states:

> [The petitioner's] work has clarified the relationship between the key feature of natural signal statistics and the visual coding, which [the petitioner] published in the top physics journal *Physical Review Letters*.
>
> [The petitioner's] work is of significance for understanding the relationship between the statistical property of the natural world and our brain development. Specifically, his work showed that the visual circuits from retina to visual cortex might be well-developed to adapt to process long-term correlation signals efficiently.

[redacted], Professor, Educational Physiology Laboratory, University of Tokyo, states:

> Although I know [the petitioner] only by reputation, I am well acquainted with his research through the papers he published in *Vision Research*, *Physical Review E*, and *Physical Review Letters*.
>
> * * *
>
> One of [the petitioner's] most creative contributions was to demonstrate that the information encoding process in the primary visual cortical neurons of monkeys exhibit higher preference for 1/f signals than $1/f^0$ and $1/f^2$ signals.

[redacted] Professor of Neurology and Neuroscience, Weill Medical College of Cornell University, states: "[The petitioner's] series of investigations has made a significant contribution to our ability to quantify mathematically the mechanisms of the contrast adaptation phenomenon in the visual cortex."

Spencer Professor of Science, Center for Neural Science, New York University, states:

> [The petitioner's] analytical results surprisingly indicated that some effects that seemed to be caused by adaptation were not, and instead the experimental observations were indeed purely due to non-linear dynamics. Other really adaptive behaviors of single neurons are the results of some adaptive circuits subjected to an information maximization process. These are

> incredible findings, and [the petitioner's] talent for analysis in this investigation has made a big contribution in this area.

Professor and Director, Visual Neuroscience Laboratory, Osaka University, states:

> Due to his unique background in physics, [the petitioner] was able to develop a theoretical framework and nonlinear dynamical analysis to isolate the sensory adaptation effect due solely to spiking generation dynamics. Then he proposed an adaptive mechanism predicted by information maximization. By doing this, he successfully predicted several contrast adaptation phenomena by a mathematical neuronal model.

[redacted], Assistant Professor, Department of Physiology and Biophysics, University of Washington, states:

> [The petitioner's] experimental results demonstrated that adaptive coding properties of primary visual cortex (V1) neurons are tuned to a particular long-term correlation inherent in a signal's energy distribution.
>
> [The petitioner] has made significant achievements in advancing our understanding of brain function and neural information processing.

In support of the preceding experts' statements, the petitioner submitted documentation showing dozens of independent cites to his published findings. These citations are solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. This evidence corroborates the experts' statements that the petitioner has made original contributions of major significance in his field. The record reflects that the petitioner's contributions are important not only to the institutions where he has worked, but throughout the greater field as well. Leading scientists from around the world have acknowledged the value of the petitioner's work and its major significance in his field.

In light of the above, the petitioner has established 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 numerous articles in publications such as *Physical Review E* and *Biological Cybernetics*. As discussed, the petitioner also submitted evidence of dozens of articles that cite to his work. These numerous citations demonstrate the significance of the petitioner's articles to his field. Accordingly, the petitioner has established that he meets this third criterion.

In this case, the petitioner has satisfied three of the regulatory criteria required for classification as an alien of extraordinary ability. 8 C.F.R. § 204.5(h)(3). Pursuant to the statute and regulations, the petitioner qualifies for the classification sought.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the totality of the evidence establishes an overall pattern of sustained national acclaim and extraordinary ability. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has overcome the stated grounds for denial and thereby established eligibility for immigrant classification under section 203(b)(1)(A) of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.