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U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: OCT 02 2009
LIN 07 177 52405

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[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.

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, 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. 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, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and that the director applied incorrect standards in denying the petition.

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 June 7, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a postdoctoral scholar and/or researcher and/or 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 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).

In response to the director's Request For Evidence ("RFE") and on appeal, counsel cites *Buletini v. INS,* 860 F. Supp. 1222 (E.D. Mich. 1994), for the proposition that meeting three criteria is sufficient to establish eligibility. In contrast to the broad precedential authority of the case law of a United States circuit court, the AAO is not bound to follow the published decision of a United States district court in cases arising within the same district. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). The reasoning underlying a district judge's decision will be given due consideration when it is properly before the AAO; however, the analysis does not have to be followed as a matter of law. *Id.* at 719. In addition, as the published decisions of the district courts are not binding on the AAO outside of that particular proceeding, the unpublished decision of a district court would necessarily have even less persuasive value.

Regardless, while we agree with the *Buletini* court that an alien need only meet three of the regulatory criteria, we do not understand the court to mean that an alien need only submit evidence *relating to* three of the regulatory criteria. The court in *Buletini* did not hold that the submission of evidence relating to a given criterion was sufficient. Rather, the court acknowledged that INS, now USCIS, "must evaluate the quality, including the credibility, of the evidence presented to determine if it, in fact, satisfies the criteria." *Buletini,* 860 F. Supp. 1234. Moreover, in determining whether the alien meets a given criterion, the evidence must be evaluated as to whether it is indicative of or consistent with national or international acclaim if the statutory basis for this classification is to have any meaning.

We do not find it violates the reasoning in *Buletini*, 860 F. Supp. at 1231, to examine the evidence submitted as to whether it is indicative of or inconsistent with national or international acclaim. The court in *Buletini* was concerned that an alien would need to first demonstrate "extraordinary ability" in order to meet this criterion. We are not following this "circular exercise" that troubled the court. Rather, we are looking at the type of review responsibilities inherent to the field and what review responsibilities might be indicative of or at least consistent with sustained national or international acclaim. *Accord Yasar v. Dep't of Homeland Security*, 2006 Westlaw 778623, *9 (S.D. Tex. March 24,

2006) (citing *Buletini* as an example of sufficient judging responsibilities rather than for the proposition that no evaluation of the judging responsibilities is permissible).

As aforementioned, each petition must be adjudicated on its own merits under the statutory provisions and regulations which apply. Thus, the petitioner's eligibility will be evaluated under the regulatory criteria relating to the immigrant classification as claimed by the petitioner.

> *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.*

The petitioner initially provided a membership card for The International Society for Optical Engineering, which indicated that he was a regular member and that his membership status expired on January 31, 2007. The petitioner did not claim this criterion either initially, in response to the RFE or on appeal, and no further evidence was submitted. Nonetheless, as pertinent evidence was initially submitted for this criterion, it was considered.

In order to demonstrate that membership in an association meets this criteria, 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 experience, 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 record lacked evidence to establish that outstanding achievements are required for membership in The International Society for Optical Engineering. For example, no evidence was included (such as membership bylaws or official admission requirements) to show that the organization requires outstanding achievements or that membership applications are judged by recognized national or international experts in the field.

Accordingly, the petitioner has not established 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 general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulation, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national level from a local publication. Some

newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.[1]

The petitioner submitted the following as evidence for this criterion:

1. An article from *Xi'an Wanbao* entitled, "If decide to do, be the best," dated May 31, 1999, without an author, accompanied by an uncertified translation;
2. An article from *Xi'an Wanbao* entitled, "Working hard for five years and will obtain three degrees," dated April 21, 1999, without an author, accompanied by an uncertified translation; and
3. An article from *China Youth Daily* entitled "University of Science and Technology of China, a developing university toward top rank in the world," dated July 5, 1999, without an author, accompanied by an uncertified translation.

In reference to the RFE, the petitioner provided descriptions of the newspapers, *Xi'an Wanbao* and *China Youth Daily*, which were allegedly excerpts from websites. However, the actual internet pages were not provided. Instead, portions of websites were cut and pasted into the same document as the uncertified translation. The description of *Xi'an Wanbao* stated that the newspaper's daily circulation is 620,000 copies and that it is the largest circulated paper in the Anhui Province. The description submitted regarding the *China Youth Daily* indicated that it is the leading newspaper for youth in China, that it distributes over 1 million copies and that it is the third most popular newspaper in the country according to the National Bureau of Statistics. On appeal, no new evidence was submitted.

The director found that the petitioner failed to satisfy this criterion, and we concur with his decision. This criterion specifically requires that the evidence submitted contains a title, date, author and translation, if necessary. The petitioner failed to submit the name of the author for all three articles (items 1-3). In addition, neither the articles (items 1-3) nor the translated descriptions of the newspapers were accompanied by certified translations. Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation that 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.

Finally, the evidence (such as circulation statistics) showing that the preceding articles submitted by the petitioner were printed in professional or major trade publications or some other form of major media was unreliable as the independent original evidence was not submitted. Nonetheless, *Xi'an Wanbao* appears to be a regional paper of the Anhui Province rather than a nationally or internationally circulated publication. Regional coverage or coverage in a publication read by only a small ethnic segment of a country's total population is not evidence of national or international acclaim.

For all of the above stated reasons, the petitioner failed to establish that he meets this criterion.

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[1] Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual's reputation outside of that county.

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 the following as evidence for this criterion:

1. An email, dated November 26, 2006, with a subject of "Transmag: Review Assignment," from the Institute of Electrical & Electronics Engineers ("IEEE") Transactions on Magnetics which thanked the petitioner for agreeing to review a manuscript for the journal;
2. An email, dated October 3, 2006, with a subject of "Review paper 06," which asked the petitioner to review a paper being submitted for the Magnetism & Magnetic Materials/Internet annual meeting;
3. An email, dated May 18, 2005, from the International Journal of Solids and Structures at Stanford University, which requested that the petitioner review a manuscript for its journal; and
4. Copies of four technical paper review forms that the petitioner purportedly reviewed (one of the review forms does not even mention the petitioner) for the IEEE Transactions on Signal Processing journal.

No new evidence was submitted in response to the RFE or on appeal.

The director did not find that the petitioner met this criterion, and we agree. 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). For example, judging a national competition for top researchers and/or scientists is of far greater probative value than judging a local competition for youth or novices.

The petitioner provided evidence regarding his review of various journal submissions for various university science journals. However, the record lacks evidence establishing the level of prestige associated with reviewing these journal entries, the requirements necessary to become a reviewer of such submissions, and the levels of expertise of the candidates who submitted manuscripts. The evidence also fails to provide any specificity regarding the journals in which the petitioner judged. Moreover, without evidence showing, for example, that the petitioner's activities were otherwise consistent with sustained national or international acclaim, we cannot conclude that he meets this criterion.

In response to the RFE and on appeal, counsel asserts that the petitioner need only show that he has judged the work of others in his field, and that he does not have to demonstrate that he was selected as a judge based on specific criteria. Counsel claims that this violates the principles set forth in *Buletini v. INS,* 860 F. Supp. 1222 (E.D. Mich. 1994). The court in *Buletini* found that requiring a petitioner to demonstrate that a particular judging responsibility required extraordinary ability was circular. To avoid *any* analysis of the judging panel, however, would be to equate the members of local, low-level panels with the national level panels. Obviously, most judging falls between the two extremes and must be evaluated on a case-by-case basis. Such evaluation considers not whether the position requires extraordinary ability, the concept rejected by the *Buletini* court, but whether the judging position is indicative of or consistent with national or international acclaim. Those who are sought as judges by national entities or local entities outside their communities have a stronger claim than those who volunteer for local panels.

Moreover, two district courts have confirmed our reasoning holding that *Buletini* does not stand for the proposition that any and all judging is sufficient. *See Yasar v. DHS,* 2006 WL 778623 *9 (S.D. Tex. Mar. 24, 2006); *All Pro Cleaning Services, Inc.,* 2005 WL 4045866 *11 (S.D. Tex. Aug. 26, 2005). While *Buletini,* 860 F. Supp. at 1231, concluded that the petitioner need not demonstrate that the alien was selected as a judge because of the alien's national or international acclaim, that case does not stand for the proposition that USCIS is precluded from evaluating the significance of the alien's judging services. Rather, the evidence submitted to meet this criterion must be indicative of or consistent with national or international acclaim. *Accord Yasar v. DHS,* 2006 WL 778623 *9 (S.D. Tex. March 24, 2006); *All Pro Cleaning Services v. DOL et al.,* 2005 WL 4045866 *11 (S.D. Tex. Aug. 26, 2005). The petitioner has failed to show how his review of various journals is indicative of or consistent with national or international acclaim.

In light of the above, the petitioner has not 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 the following as evidence for this criterion:

1. A letter from Honda congratulating at the University of California, Irvine, for winning the 2006 Honda Initiation grant and a graph listing him as one of the six winners for his project entitled, "Development of Colloidal Dampers for Semi-Active Isolation and Suspension Systems," accompanied by two pages regarding the project;
2. A copy of a grant proposal and the award from the National Science Foundation for a project entitled, "MRI: Development of a fabrication and testing system of magnetorheological smart nanocomposites," accompanied by a summary of the project, which does not indicate that the petitioner was involved as an investigator or otherwise;
3. A certificate of award for the 6th "Challenge Cup" Competition for national college students' scientific works, dated October 1999;
4. A certificate of scholarship awarding the petitioner the "Qiu-shi" scholarship for graduate students at the University of Science and Technology in China, dated September 2000;

5. An index of citations to the petitioner's works from Google Scholar;
6. Various articles which cite to the petitioner's work;
7. Internet pages from SPIE Digital Library that according to the petitioner document his "oral and poster presentations at The International Society for Optical Engineering's annual conference 2003, 2005 and 2006;"
8. A copy of the petitioner's United States patent application for the invention, "Method and system of smart colloidal dampers with controllable damping curves using magnetic field;"
9. A copy of the petitioner's People's Republic of China patent confirmation, granted February 2005, for the invention, "Magnetorhreological Fluid Linear Dampers (Shock Absorbers) for Vehicles;"
10. A copy of the petitioner's People's Republic of China patent confirmation, granted February 2005, for the invention, "Rotary Magnetorhreological Fluid Dampers;"
11. A copy of the petitioner's People's Republic of China patent confirmation, granted April 2004, for the invention, "Rheometer for Rotary Magnetorhreological Fluids;"
12. An email from [redacted] from NanoSPRINT, which invited the petitioner to contribute to an encyclopedia on carbon nanotubes and their application fields;
13. An email from a doctoral student in the United Kingdom requesting additional information about the petitioner's work; and
14. Several letters of recommendation.

In response to the director's RFE, the petitioner provided additional reference letters. The petitioner also submitted information from Honda's website which requested proposals for the initiation grant. Lastly, the petitioner submitted his online United States Patent application (item 8), which he claims was granted in his response brief. However, the evidence provided does not appear to confirm the grant of a United States Patent. No further evidence was provided on appeal.

With regard to the Honda Initiation grant (item 1), there was no independent evidence provided that established the petitioner's involvement in this project. In response to the RFE, the petitioner provided additional information regarding the award, but failed to respond directly to the RFE and did not submit evidence relating to his role in this research grant. Additionally, it is unclear how an award for a grant, by itself, which allows for sponsorship and research would qualify the petitioner under this criterion. Likewise, the grant proposal and award for item 2 does not satisfy this criterion as the petitioner's name does not appear on any of the documents and as the grant award, without further evidence of the research that resulted, would not satisfy this criterion. Moreover, the academic scholarship and award provided in items 3 and 4 do not fulfill this criterion because it has not been demonstrated how this evidence represents a contribution of major significance. Further, these academic awards were given to the petitioner almost a decade ago. As such, the sustained acclaim required under 203(b)(1)(A)(i) of the Act by this highly restrictive classification cannot be demonstrated.

While the findings set forth in articles may constitute contributions of major significance, the burden is on the petitioner to establish the significance of his work. The petitioner cannot meet this criterion simply by showing that his work has been published or that others have cited to it (items 5 and 6) in their own publications. To satisfy the criterion relating to original contributions of major significance,

the petitioner must demonstrate not only that his work is novel and useful, but also that it has attracted sustained attention and had a demonstrable impact on his field at the national or international level. The petitioner has not shown how the field has changed as a result of his work, beyond the incremental improvements in knowledge and understanding that are expected from valid original research. Further, the petitioner has not demonstrated that he has earned national or international acclaim as a result of his publications.

As further documentation of the petitioner's claimed major contributions, the petitioner provided evidence in item 7 wherein he claimed he made several presentations at scientific gatherings. However, the evidence submitted was very unclear, failing to indicate what conferences the petitioner participated in or his role in such presentations. Nonetheless, even if the evidence provided confirmed the petitioner's participation in such presentations, the petitioner did not submit any evidence regarding the type of audience who attended his presentations, the number of attendees, or the selection criteria for the presenters. As such, the evidence does not demonstrate that the petitioner's participation in these claimed conferences illustrated his national or international acclaim or that his participation in these events was a contribution of major significance to his field.

The petitioner provided his United States patent application and his Chinese patents (items 8, 9, 10, and 11), but failed to submit evidence that demonstrates the impact or significance of these inventions in his field. Moreover, the petitioner submitted two emails, one from someone interested in using his work for an encyclopedia (item 12) and the other from a student asking for more information regarding his research (item 13). Neither of these emails illustrates how the petitioner made a contribution of major significance.

With regard to the reference letters provided, we concede that reference letters can provide useful information about an alien's qualifications or help in assigning weight to certain evidence. However, such letters are not a substitute for objective evidence of the alien's achievements and recognition as required by the statute and regulations. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires "extensive documentation" of sustained national or international acclaim. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provide that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Primary evidence of achievements and recognition is of far greater probative value than the opinions of one's professional acquaintances.

In his decision, the director found that the petitioner had not satisfied this criterion, and we agree. The petitioner has failed to establish how his work has influenced his field and how it is considered to have been a contribution of major significance to his field. Accordingly, the petitioner has not 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 his resume, which listed his published articles. The petitioner also provided a printout from Google Scholar, which indicated his articles were cited to 21 times. Copies of the title pages from some of the articles the petitioner published were also submitted. In addition, the petitioner provided information regarding two journals including internet pages from the Smart Materials and Structures Journal, which indicated that it publishes six issues per year and the subject areas it covers and a list of publications where its articles can be found abstracted, as well as internet pages from the International Journal of Solids and Structures with general descriptive information.

In response to the RFE, the petitioner provided two articles he published and an updated citation list dated November 27, 2008 with some articles that cited to his work. The first article entitled, "Smart colloidal dampers with on-demand controllable damping capability," was undated but indicated that the manuscript was submitted to Smart Materials and Structures on March 4, 2008. The second article entitled, "Damping Performance of a Passive Colloidal Damper," was also undated and it is unclear where the article was published. As the publisher of the second article was not provided, the evidence is incomplete. The petition was filed on June 7, 2007, prior to the first article's publication and possibly prior to the second article being published as well. 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. *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). As such, the two articles provided in response to the RFE cannot be considered.

No new evidence was submitted on appeal. However, the petitioner's appeal brief argued that several of the recommendation letters, including those from [redacted] and [redacted], referred to the publications in which his articles appeared as "highly rated peer-reviewed journals" and "most highly respected peer reviewed journals."

As authoring scholarly articles is inherent to the research field,[2] such as the instant case where the petitioner was a doctoral candidate and now works in the research field, we evaluate the citation history or other evidence of the impact of the petitioner's articles when determining their significance to the field. The petitioner failed to provide any of the articles in which his articles were cited to and instead provided a list from Google Scholar. The petitioner therefore failed to demonstrate that his articles were frequently cited in a manner consistent with sustained national or international acclaim. Although the petitioner is the author of articles in professional publications,

[2] The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its Report and Recommendations, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition was the acknowledgement that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career." This report reinforces USCIS's conclusion that publication of scholarly articles is not presumptive evidence of sustained national or international acclaim.

this is expected of anyone working in this field, and there is no evidence that his articles have resulted in sustained national or international acclaim in his field.

As such, the petitioner has not 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.*

The petitioner did not originally submit any evidence for this criterion, and also indicated the same in his initial brief. The petitioner conceded his failure to initially claim this criterion, and then claimed it in his RFE response brief. The petitioner stated that the reference letter from [redacted] provides support for this criterion by indicating that the petitioner performed a leading role as a lab manager in the Magnetoheliological Fluids/Electrorheological Fluids Lab in the Department of Modern Mechanics at USTC in China. The letter explained that the petitioner set-up this new laboratory, and managed it for five years supervising 22 researchers, consisting of both graduate and undergraduate students. On appeal, no new evidence was provided. However, the petitioner's appeal brief cited to two additional reference letters, one from [redacted] and the other from [redacted] The latter recommendation letter confirmed his work in the aforementioned lab. The previous reference letter discussed the petitioner's alleged idea that was recognized by Honda and that he and his current supervisor are now filing for a patent regarding the idea.

In order to establish that the petitioner 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. There was little evidence provided regarding the petitioner's position as a lab manager. While the petitioner may have provided valuable services to the university in China, this criterion requires the petitioner to set himself apart from his peers and demonstrate how his leading or critical role was indicative of national or international acclaim. Moreover, the evidence regarding the petitioner's idea that was recognized by Honda was not expanded upon enough to demonstrate how the petitioner performed a leadership role, including who he led, with regard to his idea. Further, none of the evidence provided from Honda for the criteria at 8 C.F.R. § 204.5(h)(3)(v) indicated that the petitioner was involved with the award grant. The petitioner additionally failed to provide any independent evidence from sources outside of his employers.

In addition, the petitioner also failed to provide sufficient evidence to confirm that the two organizations he worked for enjoy distinguished reputations, as compared to their competitors.

As such, the petitioner has not established that he meets this criterion.

In this case, the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). 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.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.