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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: DEC 21 2005
EAC 04 034 52560

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:

[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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification of the beneficiary 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 that the beneficiary had achieved the sustained national or international acclaim requisite to classification as an alien of extraordinary ability. On appeal, counsel submits additional evidence and a letter from the petitioner, which contends that the director misstated and misapplied the statutory standard under section 203(b)(1)(A) of the Act. The petitioner's claims and the additional evidence submitted on appeal do not overcome the deficiencies of the petition and the appeal will be dismissed.

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

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

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

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend 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).

In this case, the record shows that the petitioner employs the beneficiary as a principal scientist to conduct research on semiconductor lasers. On appeal, the petitioner describes the beneficiary's field as "physics of semiconductor lasers diodes and, specifically, molecular beam epitaxy (MBE) growth of III-V and II-VI semiconductor compounds, the design, and fabrication of GaAs/AlGaAs and ZnSe/ZnCdSe semiconductor

lasers, photolithography, thin film deposition and metallization processing for high power semiconductor laser diode applications.” We address the evidence submitted and the petitioner’s contentions in the following discussion of the regulatory criteria relevant to this case. The petitioner does not claim that the beneficiary is eligible under any criteria not discussed below.

(i) 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 the beneficiary meets this criterion by virtue of 1) his receipt of the “Talented Young Scientists of Russia” award in 2000, 2) his invited participation in the Japanese Society for the Promotion of Science (JSPS) research program in 1999, and 3) his receipt of three research grants from the Russian Foundation for Basic Research. The record does not establish that these accomplishments are nationally or internationally recognized prizes or awards in the petitioner’s field.

As evidence of the beneficiary’s receipt of the Russian award, the petitioner submitted two “extractions” from the Presidium of the Russian Academy of Sciences on April 11, 2000. These documents are printed in English as partial translations, but the petitioner has not submitted a copy of the original document in Russian nor a certification regarding the accuracy of the submitted translation. Supporting documents must be submitted in the original or a legible photocopy. 8 C.F.R. § 103.2(b)(4). Any documents containing a foreign language must be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator’s attestation of his or her competence to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). Because the petitioner submitted neither the original document in Russian (or a photocopy) nor a certified English translation of the Russian original, we cannot ascertain whether the submitted documents support the beneficiary’s eligibility under this criterion.

We note, however, that the director determined that the documents submitted indicated that the petitioner’s award was a “fellowship” and stated, “Scholarships and fellowships are academic awards and are not considered to be nationally or internationally recognized prizes that are indicative of sustained national or international acclaim in a specific field of endeavor.” On appeal, the petitioner contends that the director mischaracterized this award as an “academic award” and a “scholarship” and asserts that the beneficiary’s award was granted after the beneficiary received his doctoral degree and is a “professional award.” The record does not support this contention. The submitted uncertified translation of the extract from Resolution Number 77 of the Russian Academy of Sciences Presidium is captioned “On awarding of state scientific scholarships” and repeatedly refers to the talented young scientists of Russia awards as “state scientific scholarships.” In addition, the submitted documents do not show that the talented young scientists of Russia awards are consistent with national acclaim in Russia for scientific excellence among all scientists, regardless of age.

The record also fails to establish that the beneficiary’s selection to conduct collaborative research in Japan meets this criterion. The petitioner submitted a letter from JSPS informing the beneficiary of his invitation to participate in the “JSPS Invitation Fellowship Program for Research in Japan” for ten months beginning in November 1999. The letter indicates that Dr. Takafumi Yao of Tohoku University would be the beneficiary’s host scientist and the petitioner submitted evidence of Dr. Yao’s standing in the field, but the record contains no documentation that the beneficiary actually accepted the invitation and participated in the program. On appeal, the petitioner submits excerpts from the 2002 JSPS External Review Report which show that long term JSPS research fellowships in the physical sciences had an 18.4 percent acceptance rate in fiscal year 1996 and a 29.1 percent acceptance rate in fiscal year 2000. The report states that the eligibility criteria for these fellowships are

possession of a doctoral degree for six or more years and being a professor, research associate or other individual who does not have a doctoral degree, but has substantial professional experience. While this evidence indicates that the JSPS long-term fellowships are competitive, the record does not establish that the fellowships are nationally or internationally recognized awards or prizes for excellence in the beneficiary's field, rather than a source of funding for collaborative research.

The record similarly fails to show that the beneficiary's purported research grants from the Russian Foundation for Basic Research (RFBR) meet this criterion. First, the record fails to document the beneficiary's alleged grants. On appeal, the petitioner claims that the beneficiary received three grants from the RFBR between 1995 and 1998. The petitioner's curriculum vitae also states that he received three RFBR grants, but the record contains no corroborative evidence of any of these purported grants. The only relevant document submitted is entitled "Abstract of final report" for RFBR Grant Number [REDACTED]. The document does not identify the petitioner as an investigator for this grant. The document is captioned, "This is the abstract of final [sic] report in the manner how it was sent out to RFBR." The one-page English document is attached to a six-page document in Russian. Because the petitioner submitted an incomplete and uncertified English translation of the original document in Russian, we cannot ascertain whether the submitted documents support the beneficiary's eligibility under this criterion. *See* 8 C.F.R. § 103.2(b)(4).

Second, even if fully documented, the petitioner's alleged RFBR grants would not meet this criterion. Although they may be highly competitive and prestigious, research grants are not prizes or awards for excellence in a given field. Grants support promising research; they do not recognize past achievements except to the limited extent that prior studies may support the viability of the proposed project. The submitted report, "Russian Basic Science: Changes Since the Collapse of the Soviet Union and the Impact of International Support," explains that the RFBR was established in the early nineties, fostered competition and peer review as opposed to the "base funding ideology" traditional in Russian science, and had a very small budget compared to other Russian government expenditures on civilian research. While this evidence indicates that RFBR funds were highly competitive and granted on the basis of peer review, the report does not establish that RFBR grants are nationally recognized prizes or awards.

On appeal, the petitioner requests that the beneficiary's alleged JSPS fellowship and his purported RFBR grants be considered as comparable evidence of his eligibility under this criterion pursuant to 8 C.F.R. § 204.5(h)(4). As discussed above, the record does not document the beneficiary's acceptance of the JSPS fellowship invitation or his receipt of RFBR grants. Even if fully documented, however, these accomplishments would not warrant invocation of the comparable evidence provision. CIS will consider comparable evidence of an alien's eligibility only when the ten criteria at 8 C.F.R. § 204.5(h)(3) "do not readily apply to the beneficiary's occupation." Neither the petitioner nor counsel has explained or documented why the ten criteria do not readily apply to the beneficiary's occupation such that consideration of comparable evidence is warranted.

The petitioner has not properly documented the beneficiary's receipt of the Talented Young Scientist of Russia award, his JSPS fellowship and his alleged RFBR grants. Even if fully documented, however, the relevant evidence submitted does not establish that these accomplishments are nationally or internationally recognized awards or prizes for scientific excellence in the beneficiary's field. Accordingly, the beneficiary does not meet this criterion.

(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The petitioner did not initially claim that the beneficiary met this criterion. On appeal, the petitioner claims that the beneficiary satisfies this criterion by virtue of one published article regarding work on which the petitioner collaborated and citations to the petitioner's co-authored articles. The record does not support this claim.

The petitioner submitted a copy of a section entitled "Newsbreaks" from the July 1995 edition of *Laser Focus World*. This section contains a two-paragraph description of "a room-temperature electron-beam-pumped vertical-cavity surface-emitting laser (VCSEL)," as reported in a paper presented at a scientific conference. This short description attributes the work to "Russian Nobel Laureates, N.G. Basov and A.M. Prokhorov." The beneficiary is not named. The petitioner claims that this document is published material about the beneficiary because on a list of the beneficiary's presentations, he is included as one of nine co-authors of the referenced conference paper. The record contains no copy of the conference paper or other independent verification that the beneficiary was a co-author of the presented manuscript. The petitioner also failed to submit any evidence to support its claim that *Laser Focus World* is "a major trade publication for the photonics and optoelectronics industry." Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Even if properly documented, however, the brief mention of research in which the petitioner was involved over eight years before this petition was filed does not demonstrate the requisite sustained acclaim. The submitted excerpt from *Laser Focus World* thus does not satisfy this criterion.

The citations to the petitioner's co-authored articles also fail to meet this criterion. Citations of an alien's work by other scientists in their scholarly publications rarely meet this criterion because the citing articles are primarily about the authors' own research, not the work of the alien. On appeal, the petitioner submitted printouts from the *ISI Web of Science* showing that nine published articles of which he is a co-author have been cited a combined total of 36 times. The printouts do not list the citing articles or provide any evidence that the citations to the petitioner's work were made in the course of substantial discussion of his work, as opposed to brief citations to review prior work in the field or establish a subsidiary point. Accordingly, the beneficiary does not meet this criterion.

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

The petitioner initially claimed that the beneficiary met this criterion because in 1994 he was part of "the first Russian laboratory to succeed in the laser generation of ZnCdSe/ZnSe quantum well system at room temperature with optical excitation" and because in 1995 the beneficiary "joined Nobel Prize winners A.M. Prokhorov and N.G. Basov in presenting their research of the development and characterization of vertical cavity surface emitting lasers with electronic beam excitation." As evidence of the beneficiary's contributions, the petitioner cited the five recommendation letters submitted with the petition. On appeal, the petitioner submits an additional three letters of support. While such letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters

solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim. Accordingly, we review the letters as they relate to other evidence of the petitioner's contributions.

Abdelhak Bensaoula, Research Professor of Physics at the Texas Center for Superconductivity and Advanced Materials at the University of Houston, states that he is familiar with the beneficiary's achievements through his publications. Professor Bensaoula affirms that in 1994 the beneficiary was part of the first research team within the former Soviet Union to develop and demonstrate "room temperature laser generation based on epitaxial ZnCdSe/ZnSe quantum well system." Professor Bensaoula explains that the beneficiary's main accomplishments concern "the development and characterization of vertical cavity surface emitting lasers with electron beam excitation or, in other words, 'laser cathode ray tube' (LCRT)." Professor Bensaoula confirms that the beneficiary worked closely and published articles with the two (now deceased) Nobel Prize winners, A.M. Prokhorov and N.G. Basov, and that the results obtained by the beneficiary "still hold the highest laser optical power record for II-IV materials for a laser in a vertical geometry."

The record only partially corroborates Professor Bensaoula's statements. The list of the beneficiary's articles and presentations submitted on appeal includes five articles and four presentations that the beneficiary co-authored with A.M. Prokhorov and N.G. Basov. Yet the record contains evidence of only two of these manuscripts. The citation lists submitted on appeal verify that an article co-authored by A.M. Prokhorov, N.G. Basov, the beneficiary and six other individuals was published in 1995 in *Kvantovaya Elektronika* and has been cited four times and that another article by the same authors was published in 1996 in *Laser Physics* and has been cited 13 times. The submitted citation lists do not include the citing articles, hence, we cannot determine the dates of the citations or whether any of the citations to these two articles include self-citations by the beneficiary. Without this information, it is not possible to conclude that the citations evidence sustained acclaim.

Richard R. Craig, Chief Executive Officer of Santur Corporation, which develops and sells tunable laser sources and other components for advanced optical networking systems, states that he is also aware of the beneficiary's work through his publications and presentations at scientific conferences. Mr. Craig states that the beneficiary's "research in the field of zinc selenide (ZnSe) based high power vertical emitting lasers using Molecular Beam Epitaxy has advanced the science in this field." The citation lists submitted on appeal show that the petitioner co-authored four articles that appear to relate to this research that were published in scientific journals between 1995 and 2001 and that have been cited a combined total of 19 times. The record does not indicate the dates of the citations or what number of the citations, if any, are self-citations by the beneficiary. Mr. Craig also notes that the beneficiary's work for the petitioner "is vital to the development of high power and high reliability diode sources for telecommunications optical amplifiers used throughout the communications industry," but Mr. Craig does not discuss any of the beneficiary's work for the petitioner that has already made a major contribution to his field.

William F. Krupke, former Deputy Associate Director of the Lawrence Livermore National Laboratory, states that he is a member of the petitioner's Board of Directors. Mr. Krupke reports that the beneficiary "has affiliated with [sic] research teams of the first rank" and notes his publication of several papers with the Nobel Prize winners, A.M. Prokhorov and N.G. Basov. Mr. Krupke opines that "[o]n the basis of his published semiconductor laser research I certainly place [the beneficiary] at the top of his field." Mr. Krupke describes the

beneficiary as “a very talented scientist who is making major contributions in the implementation of new approaches and new materials for the fabrication of high power lasers in the 970 nm spectral range.”

Sergey Mirov, Professor of Physics and Associate Director of the Laser and Photonics Research Center at the University of Alabama at Birmingham, states that he has known the beneficiary for nearly 13 years. Professor Mirov also affirms the beneficiary’s participation in the team that “first succeeded in high power surface emitting laser (VCSEL) fabrication and operation at room temperature, edging out major competitors” from other countries. Professor Mirov further states that the beneficiary was “the first researcher who suggested and applied the atomic hydrogen cleaning approach to ZnSe substrates for homoepitaxial growth and this approach is effectively used by other researchers all over the world.” Yet the record contains no evidence to corroborate that other researchers use the beneficiary’s approach. Professor Mirov also explains that “[a]fter perfecting his state-of-the-art expertise in Molecular Beam Epitaxy (MBE)[,] [the beneficiary] proposed and was also the first researcher to realize high reflective monocrystalline distributed Bragg reflectors integrated with transparent ZnSe wafers.” A citation list submitted on appeal documents that the beneficiary is the lead author of an article on this topic that was published in 2001 in the *Journal of Crystal Growth* and has been cited four times, but the record does not establish that this article made a major contribution to the field.

John A. Taylor, a staff member of the MIT Lincoln Laboratory, states that the beneficiary has “developed a new technique for the passivation of laser diode facets using a nitride compound. . . . He has applied for a US patent on this invention.” The record contains a copy of an application filed with the U.S. Patent and Trademark Office on August 21, 2002 entitled “Laser Diode with Nitride Passivation.” The application and associated documents identify the beneficiary as the first inventor. Yet the record contains no documentation of the approval of this application or other evidence that the beneficiary’s work has made an original contribution of major significance to his field. Even if the beneficiary’s work had been patented, that fact alone would be insufficient to meet this criterion. To establish eligibility under this category by virtue of patents, a petitioner must not only show that the beneficiary’s work has been granted a patent, but that the patented invention constitutes a scientific contribution of major significance to his field. Accordingly, the significance of a patented invention is determined on a case-by-case basis. *See Matter of New York State Dep’t. of Transp.*, 22 I&N Dec. 215, 221 n.7 (Comm. 1998).

On appeal, the petitioner submits letters from Stewart Wilson, Jason Farmer and Helmut Wenisch that discuss the beneficiary’s work in this area. However, the letters predominately discuss the beneficiary’s work that was presented to his field in 2004 and 2005. Consequently, we cannot consider these letters because they are primarily based on evidence that arose after the petition was filed. The petitioner must establish the beneficiary’s eligibility at the time of filing; a petition cannot be approved at a future date after the beneficiary becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Similarly, the submitted copy of a manuscript co-authored by the beneficiary (“High-Efficiency 970 nm Multimode Pumps”) cannot be considered because the record indicates that it was presented to the field after the petition was filed. *Id.*

We further note that the record contains two letters attributed to Mr. Farmer. The first letter is unsigned and captioned, “[TO BE PREPARED ON ORGANIZATION STATIONERY] [DATE].” (emphasis in original). The second letter is dated February 14, 2005, is signed by Mr. Farmer as Vice President of Advanced Technology for the nLight Corporation and is printed on letterhead stationery for the nLight Corporation. The text, language and tenor of this letter differs significantly from the first unsigned letter. The first letter thus appears to be written by someone other than Mr. Farmer.

The record contains several documents which provide general information on VCSEL, the laser cathode ray tube developed by Principia Light Works, and MBE, but none of these documents mention the beneficiary. On appeal, the petitioner submits evidence that two manuscripts co-authored by the beneficiary were presented by invitation at two conferences in his field, but we cannot consider this evidence because it arose after the petition was filed. The petitioner must establish the beneficiary's eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49.

On appeal, the petitioner also repeatedly stresses the purported significance of the beneficiary's work with the Nobel Prize winners, A.M. Prokhorov and N.G. Basov. The petitioner contends, "To have worked with not only one but two Nobel Prize winners in nine papers and presentations is an unparalleled honor, the highest recognition, and extremely significant events [sic] in distinguished scientists [sic] careers." (emphasis in original). We do not dispute the honor and prestige of the beneficiary's work experience with Mr. Prokhorov and Mr. Basov. However, past collaboration with Nobel laureates alone does not establish the beneficiary's eligibility under this criterion for two reasons. First, the record does not show that the beneficiary was involved in the Nobel Prize-winning work of Mr. Prokhorov and Mr. Basov, such that their acclaim could indirectly be attributed, in part, to the beneficiary himself. The evidence submitted also does not establish that the beneficiary's collaboration with these Nobel laureates made original contributions of major significance to the field in a manner consistent with sustained national or international acclaim. Although many of the recommendation letters praise the beneficiary's collaborative work with the Nobel laureates, the record only documents that two of their co-authored publications have been cited a combined total of 17 times.

Second, although the beneficiary's "List of publications" includes five published articles and four presentations that he purportedly co-authored with Mr. Prokhorov and Mr. Basov, the record only documents two of the published articles through the citation lists submitted on appeal. Without corroborative documentation, the beneficiary's self-produced list does not establish his authorship of these publications and presentations. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. The petitioner did not submit, for example, copies of the beneficiary's publications or a complete list of his published articles from an independent source.

In review, the recommendation letters praise the beneficiary's work and discuss its importance to his field. Yet the record does not fully document the beneficiary's accomplishments or corroborate the significance of the beneficiary's work as assessed in the recommendation letters. Apart from the letters, the record documents the publication and citation of eight articles co-authored by the petitioner between 1994 and 2000. The cited reference index submitted on appeal lists a ninth article, which we cannot consider because it was published in 2004, a year after the petition was filed. We are also unable to consider additional documentation of the beneficiary's recent work that was submitted on appeal because this evidence arose after the petition was filed. Again, the petitioner must establish the beneficiary's eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. Neither the short article from *Laser Focus World* discussed above under the third criterion nor the informational documents regarding subjects on which the petitioner has worked mention the beneficiary or demonstrate that his work has made major contributions to his field. Accordingly, the beneficiary does not meet this criterion.

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

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 requisite to 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 or her field.

In this case, the record contains two lists of the beneficiary's publications and presentations. As discussed above under the fifth criterion, the beneficiary's self-produced lists do not establish his authorship of published scholarly articles without corroborative documentation. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. The petitioner did not submit, for example, copies of the beneficiary's publications or a complete list of his published articles from an independent source. The record also contains no documentation of the editorial process of the journals that have published the beneficiary's work or other evidence regarding the standing of these journals in the beneficiary's field.

On appeal, the petitioner claims that the beneficiary is the principal author of eight published articles and four presentations, as stated on the revised publications list submitted on appeal. However, the record contains corroborative evidence of just one published article of which the beneficiary is the lead author (as documented by the citation record submitted on appeal for the beneficiary's article published in 2001 in the *Journal of Crystal Growth*). The petitioner contends that the order in which authors are listed does not reflect the nature of the authors' contributions to the published work because the authors may be listed alphabetically or reflect the seniority of the scientists at a particular institution. Yet, the petitioner submitted no evidence to establish that these manners of listing authors are standard or common practices in the United States or Russia. Again, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. We do not deny that a listed author, regardless of his or her place in the list, has contributed to the published research. However, repeated lead authorship may reflect sustained acclaim, whereas co-authorship may only reflect continuous work in the alien's field.

The citation lists submitted on appeal document eight articles co-authored by the beneficiary that were published prior to filing. The petitioner is the first author of one of these articles. The eight articles have been cited a combined total of 35 times. The record does not contain lists of the citing articles from which we could determine the dates of the citing articles and whether or not the citations include self-citations by the beneficiary. Without this information, we cannot conclude that the citations of the beneficiary's work demonstrate the requisite sustained acclaim. Accordingly, the beneficiary does not meet this criterion.

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

The petitioner did not initially claim that the beneficiary met this criterion, but on appeal claims that the beneficiary performs a critical role for the petitioner. The record does not support this claim. As evidence of the petitioner's reputation and the beneficiary's accomplishments while employed by the petitioner, the petitioner cites documents submitted on appeal that were published or arose after the petition was filed. We cannot consider this evidence because the beneficiary's eligibility must be established at the time of filing; a petition cannot be approved at a future date after the beneficiary becomes eligible under a new set of facts. *See*

8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. Consequently, the beneficiary does not meet this criterion.

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

The petitioner did not initially claim that the beneficiary met this criterion. On appeal, the petitioner claims the beneficiary satisfies this criterion because he “receives annual [sic] salary of \$120,000 and has stock options with a potential worth up to \$635,000 or more when exercised.” The record contains no documentation of the beneficiary’s salary or stock options. Again, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. The record thus does not establish that the beneficiary’s income or remuneration at the time of filing was significantly higher than that of other individuals in his field or comparable to such individuals at the top of his field. Accordingly, the beneficiary does not meet this criterion.

Finally, we address the petitioner’s contention that the director misstated and misapplied the statutory and regulatory standards for petitions filed under section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h). In the prefatory comments of his decision, the director stated, “The beneficiary’s colleagues have submitted testimonials indicating that they hold him in high regard. However, the beneficiary’s accomplishments appear to pale in comparison with the accomplishments of the colleagues who have made these attestations.” The petitioner contends that the director thus denied the petition because he “did not believe the Beneficiary is **the best** scientist . . .” (emphasis in original). We do not read the director’s comments as applying an inappropriate standard. The director did not state that the beneficiary’s petition was denied because he is not the best scientist in his field or because his accomplishments were not comparable to those of the authors of his recommendation letters. Rather, the director discussed the relevant evidence under each of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and concluded that the record did not establish that the beneficiary was an alien of extraordinary ability pursuant to section 203(b)(1)(A) of the Act.

We acknowledge that in his discussion of the recommendation letters as evidence of the beneficiary’s eligibility under the fifth criterion, the director stated that the majority of the letters were written by individuals who had worked with the beneficiary and that while notable, such letters do not establish that an alien’s work has received recognition beyond his circle of colleagues and in a manner consistent with sustained national or international acclaim. As we noted in our discussion of the letters under the fifth criterion, scientists with no stated association with the petitioner wrote three of the five letters submitted with the petition. A member of the petitioner’s Board of Directors wrote the fourth letter and the fifth letter was written by an individual who states that he has known the beneficiary for 13 years. We cannot consider the three additional letters submitted on appeal because they predominately discuss work of the beneficiary that was disseminated to his field after the petition was filed. The beneficiary’s eligibility must be established at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. We have noted the associations of the letters’ authors with the beneficiary and have assessed their evaluations of the beneficiary’s work in conjunction with other evidence of the beneficiary’s accomplishments in the record. We have also explained that, even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim.

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

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.