U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: APR 03 2008

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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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

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.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on April 17, 2006, seeks to classify the petitioner as an alien with extraordinary ability as flow control researcher. At the time of filing, the petitioner was the President of KAYOS Enterprise, Inc. and a Research Contractor to the Aeronautical Research Center, United States Air Force Academy.

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 that he chaired a session at the Adaptive Structures and Material Systems Symposium of the 2001 American Society of Mechanical Engineers (ASME) International Mechanical Engineering Congress and Exposition. The petitioner also chaired a session at the 44th American Institute of Aeronautics and Astronautics (AIAA) Aerospace Sciences Meeting and Exhibit in January 2006. The petitioner's session chair responsibilities for the latter conference included "identification of Outstanding Paper(s) candidates for recognition by the GTTC [Ground Testing Technical Committee]." The petitioner's evidence also included documentation that he provided peer review services for multiple engineering conferences of the ASME and the AIAA and for publications such as the *Journal of Sound and Vibration* and the *AIAA Journal*.

In light of the above, 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 research contributions. We cite representative examples here.

[redacted], Director, Aeronautics Research Center, United States Air Force Academy, states:

> [The petitioner] designed a system based on the redistribution of load onto various aerodynamic control surfaces. In doing so, he demonstrated that the structural efficiency of the wings could be increased by about twenty percent. To the lay person this may not seem like an important advance. However, a twenty percent increase in structural efficiency translates into the ability for the UAV [unmanned air vehicle] to carry much more fuel and a much greater payload. . . . [The petitioner] also developed a concept to monitor the vibration of UAV engines, and demonstrated that any time there was a problem with the UAV, such as a crack or maintenance issue, the vibration signature would change. Thus, by monitoring the vibration of the engines, one can quantitatively "foresee problems," and in that way better maintain the UAV's propulsion system, thereby greatly reducing catastrophic failures and UAV loss. This innovation has been operation since 2001.

> [The petitioner] devised a new way of placing sensors which sensed the frequency of the flow, give a command to activators, which in turn introduce a disturbance into the air, with the result that the aerodynamics perform more efficiently and showed that the unsteady forces could be reduced by 90%. In short, unsteady forces cause undesired energy, which in turn greatly decreases the efficiency of the aircraft. The team went on to build an experimental prototype and conducted experiments in both wind and water tunnels. This is an absolutely phenomenal breakthrough.
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> * * *
>
> [The petitioner] has pioneered a breakthrough that has represented an enormous obstacle in aeronautics for years. He has successfully designed a model which allows us to predict how the unsteady aerodynamics in a wake will respond to a disturbance. With this information, we are now poised to design systems to better the performance of future aircraft.

Professor, Mechanical and Aerospace Engineering, Illinois Institute of Technology, states:

> For the past three years, I have been following [the petitioner's] development of low-order modeling techniques for flow control. [The petitioner's] work concerning feedback flow control of a cylinder wake is especially important to the scientific community. . . . [The petitioner] has authored and co-authored numerous articles on these subjects that have helped engineers and aeronautical scientists to effectively deal with feedback control of cylinder wakes. I respect this work very much and even cited his work in my own.

Dr. Rudibert King, Managing Director of the Institute of Process and Plant Technology and Head of the Measurement and Control Group at the Technische Universitat Berlin, Germany, states:

> While we do not know each other personally, I greatly respect [the petitioner's] work. His discoveries in regard to cylinder wakes and low order modeling techniques are unrivaled by other scientists. [The petitioner] has been making amazing contributions to the sciences . . . and he continues to revolutionize the way we think about and approach flow and flow control issues.

Dr. Douglas Barlow, Acting Dean of the Faculty, United States Air Force Academy, states:

> [The petitioner] developed and used closed loop flow control systems as a method of manipulating air flow around aircraft to ensure more efficient flight. [The petitioner's] discoveries in reduced order methods for closed-loop control systems are unique and represent a major advance in aerodynamics. This discovery is of major significance because with the ability to manipulate air around aircraft, not only will airplanes and their crews be safer, but also the designs of these planes may be simplified by the closed-loop control systems capabilities without sacrificing range, endurance, or payload.

Dr. Eric Gillies, Senior Lecturer, Department of Aerospace Engineering, University of Glasgow, Scotland, states: "[The petitioner] developed closed-loop flow control by devising a new way of placing sensors that can sense the behavior of the flow and give a command to actuators that introduce a controlled perturbation

into the flow. This allows for more effective aerodynamics and can reduce unsteady forces that decrease deficiency."

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 unusually large number of citations corroborates the experts' statements that the petitioner has made contributions of major significance in his field. The record reflects that the petitioner's original scientific contributions are important not only to the research institutions where he has worked, but throughout the greater field as well. Leading experts from around the world have acknowledged the value of the petitioner's work and its major significance to the flow control research 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 *Journal of Sound and Vibration*, *AIAA Journal*, *Computers and Fluids*, and *Journal of Vibration and Control*. The petitioner also submitted evidence of several of his articles that were presented at AIAA conferences. As discussed previously, the record also includes evidence of dozens of articles that cite to his published and presented work. These numerous citations demonstrate the significance of the petitioner's articles to his field. As such, the petitioner has established that he meets this criterion.

In this case, the petitioner has satisfied three of the regulatory criteria required for classification as an alien of extraordinary ability. Pursuant to the statute and regulations, the petitioner qualifies for 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.