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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

LIN 07 048 50178

Office: NEBRASKA SERVICE CENTER

Date: MAR 27 2009

IN RE:

Petitioner:

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:



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 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, the petitioner argues that he 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 December 4, 2006, seeks to classify the petitioner as an alien with extraordinary ability as an electrical engineer. At the time of filing, the petitioner was working as an

Assistant Project Scientist at the California Institute for Telecommunications and Information Technology (Calit2) at the University of California, San Diego (UCSD).

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). The petitioner has submitted evidence pertaining to the following criteria.¹

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

The petitioner submitted a July 2006 letter addressed to him from [REDACTED], stating: "I would like to take this opportunity to congratulate you on your inclusion in this year's edition of [REDACTED] to be published in November." The letter states that the petitioner's biographical entry will appear "in the 2007 edition" and requests that he review a form containing his personal information, make any necessary changes, and return the form to the publisher. There is no evidence showing the page containing the petitioner's published entry in the 2007 edition. In response to the director's request for evidence, the petitioner submitted information about [REDACTED] from its internet site. In the "FAQ's" section, it states: "Often individuals are considered on the basis of their professional positions alone." The petitioner's selection to appear in [REDACTED] *in America* represents his inclusion in a comprehensive professional directory rather than his receipt of a nationally or internationally recognized prize or award for excellence in his field. Appearing as one of thousands of other successful professionals in a frequently published directory is not evidence of national or international acclaim.

The petitioner also submitted an April 26, 2005 letter addressed to him from [REDACTED] UCSD Division, Calit2, stating: "I am happy to allocate \$96,000 in support of your Wireless Communications System Research and Prototyping Lab (Calradio 1.5) according to the attached project plan and budget. . . . I look forward to continued progress on this exciting project!" With regard to this ongoing research project for which the petitioner received funding, it is noted that research grants simply fund a scientist's work. The past achievements of the principal investigator are a factor in grant proposals. The funding institution has to be assured that the investigator is capable of performing the proposed research. Nevertheless, a research grant is principally designed

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

to fund future scientific research, and is not a national or international award to honor or recognize excellent achievement in the field. Further, we note that a substantial amount of scientific research is funded by research grants from a variety of public and private sources. Therefore, we cannot conclude that obtaining funding for one's research constitutes receipt of a nationally or internationally recognized prize or award for excellence in the field of endeavor.

In light of the above, the petitioner has not established that he meets this criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, a 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, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. 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 petitioner submitted evidence showing that he became a "Full Member" of Sigma Xi, the Scientific Research Society, in 2006. The letter welcoming the petitioner to Sigma Xi states that the society has "nearly 65,000 active members." In response to the director's request for evidence, the petitioner submitted information from Sigma Xi's internet site reflecting its requirements for Full Membership:

An individual who has shown noteworthy achievement as an original investigator in a field of pure or applied science is eligible for election to Full Membership. This noteworthy achievement must be evidenced by publication as a first author on two articles published in a refereed journal, patents, written reports or a thesis or dissertation.

A "noteworthy achievement" is not necessarily indicative of "outstanding achievements." As publication is inherent to the research field, we cannot conclude that primary authorship of two papers is indicative of outstanding achievements.

The petitioner submitted his 2006 membership card for the Institute of Electrical and Electronics Engineers (IEEE) reflecting that he holds the grade of "Member." In response to the director's request for evidence, the petitioner submitted information from the IEEE's internet site stating that the IEEE has "more than 375,000 members." The material from the IEEE's internet site included a section entitled "Qualifications for IEEE Membership" stating:

Member grade is limited to those who have satisfied IEEE-specified educational requirements and/or who have demonstrated professional competence in IEEE-designated

fields of interest. For admission or transfer to the grade of Member, a candidate shall be either:

- (a) An individual who shall have received a three-to-five year university-level or higher degree (i) from an accredited institution or program and (ii) in an IEEE-designated field
- (b) An individual who shall have received a three-to-five year university-level or higher degree from an accredited institution or program and who has at least three years of professional work experience engaged in teaching, creating, developing, practicing or managing in IEEE-designated fields; or
- (c) An individual who, through at least six years of professional work experience, has demonstrated competence in teaching, creating, developing, practicing or managing within IEEE-designated fields.

The grade of **Senior Member** is the highest for which application may be made and shall require experience reflecting professional maturity.

* * *

The grade of **Fellow** recognizes unusual distinction in the profession and shall be conferred only by invitation of the Board of Directors upon a person with an extraordinary record of accomplishments in any of the IEEE-designated fields.

With regard to the petitioner's "Member" grade, we cannot conclude that meeting minimum "educational requirements" and demonstrating "professional competence" are tantamount to "outstanding achievements." Further, we note that the petitioner's category is the least restrictive among the above three grades of membership within the IEEE. Accordingly, the petitioner's level of membership in the IEEE is not an indication that he "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, there is no evidence showing that the petitioner holds membership in an organization requiring outstanding achievements its members, as judged by recognized national or international experts in his field or an allied one. 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 regulations, 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.²

In response to the director's request for evidence, the petitioner submitted a tutorial review in the July 2007 issue of *Proceedings of the IEEE* that comments on his work and that of dozens of other researchers. This tutorial review was published subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider this evidence in this proceeding. Nevertheless, the review article is not primarily about the petitioner.

In light of the above, the petitioner has not established that he meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner submitted evidence showing that he reviewed numerous papers submitted to journals such as *IEEE Transactions on Wireless Communications*, *IEEE Transactions on Signal Processing*, *IEEE Signal Processing Letters*, *IEEE Transactions on Vehicular Technology*, *IEEE Communications Letters*, *Journal of Communications and Networks*, *Wireless Networks*, *Wireless Communications and Mobile Computing*, and *Circuits, Systems and Signal Processing*. The petitioner also submitted evidence showing that he reviewed numerous papers submitted to international conferences such as the 14th European Signal Processing Conference and the 2004, 2005 and 2006 IEEE Global Communications Conferences. In light of his review of numerous research papers submitted for publication in several journals and for multiple conferences, 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 recommendation.

Department of Electrical and Computer Engineering, UCSD, states:

[The petitioner] was a post-doctoral researcher in my research group and so I am intimately familiar with his technical abilities. . . . He currently is an assistant project scientist in the California Institute for Telecommunications and Information Technology [The petitioner] received his Ph.D. from Stevens Institute of Technology in Hoboken, New Jersey, a premier university, under the supervision of [redacted] and [redacted] both of whom

² 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.

are distinguished researchers in wireless communications. For his Ph.D., [the petitioner's] research was on the key enabling technologies of OFDMA [Orthogonal Frequency Division Multiple Access] system for broadband wireless communications. In particular, he was the first to propose an efficient subspace based algorithm for estimating multi-user carrier frequency offset estimation simultaneously in the uplink of OFDMA system using interleaved subcarrier assignment. He also developed an interference cancellation scheme for generalized OFDMA uplink at the base station without the need to feedback the frequency errors to each individual users. Jointly, both methods formed a [sic] uplink frequency synchronization solution for broadband wireless systems using OFDMA.

* * *

As a head of the research project entitled, "Advanced Multiple Antenna Broadband Software Defined Radio Test-bed," [the petitioner] has led his team to develop innovative radio signal processing algorithms, such as timing and frequency synchronization, for OFDM-based wireless systems. He has also developed a system-level design methodology to improve efficiency in the research, development, and deployment of advanced radio communication systems.

[redacted], USCD Division, Calit2, and Qualcomm Endowed Chair Professor in Telecommunications and Information Technology at USCD's Department of Electrical and Computer Engineering, states:

Under his leadership, [the petitioner's] team has successfully designed and integrated a state-of-the-art hardware experimental platform of multiple antennas broadband software-defined radio for purposes of research, development, and education. His team has also developed a system-level design methodology for improving efficiency in the research, development, and deployment of advanced radio communication systems. The results of this particular achievement were recently published in the prestigious 2006 IEEE Radio and Wireless Symposium.

Professor Emeritus and Research Professor at Northeastern University, and an Adjunct Professor in the Department of Electrical and Computer Engineering at UCSD, states:

[The petitioner's] expertise lies in orthogonal frequency division multiplexing, multiple-input-multiple-output antenna array systems, and software-defined radio prototyping. I came to know [the petitioner] through our cooperation in a project entitled, "Multi-Antenna Wireless Communication Systems," in which I am one of the principal investigators. He is also actively involved in the other important project, the Army Research Office's Multi-University Research Initiative on "Space-Time Processing for Tactical Mobile Ad-Hoc Networks," in which I am also a principal investigator.

In the past few years, [the petitioner] has made several important contributions in the field of radio communications. For instance, he has led a team of researchers in designing a state-of-

the-art hardware experimental platform to facilitate academic research and development of multiple antennas broadband software-defined radio. His work has attracted considerable attention and funding from the research department of Ericsson, the world's largest wireless infrastructure provider. In addition, [the petitioner] has had his scientific findings accepted for publication in some of the field's most prestigious journals, including *IEEE Transactions on Communications* and *IEEE Transactions on Vehicular Technology*.

Associate Director, Calit2, and Adjunct Professor in the Department of Electrical and Computer Engineering, UCSD, states: “[The petitioner] is an accomplished researcher in the field of Orthogonal Frequency Division Multiple Access (OFDM) technology. He has published several papers in the field”

The preceding letters from [redacted], [redacted], and [redacted] all mention the petitioner's publications. The petitioner's published work is far more relevant to the “authorship of scholarly articles” criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, USCIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. We will fully address the published work authored by the petitioner under the next criterion.

Professor of Digital Transmissions and Telecommunications, Department of Information Engineering, University of Pisa, states:

[The petitioner] was the first person to provide an original solution to frequency synchronization on an interleaved OFDMA uplink, where it is especially difficult to separate the synchronization errors elicited from multiple users using traditional filter methods. [The petitioner] is also credited with having created a novel signal model based on the inner structure of radio waveforms and for having designed an efficient algorithm to resolve this formidable problem. Using his method, the frequency offset of each user can be simultaneously estimated and corrected in the uplink without having to resort to the feedback procedure normally required. The system efficiency is therefore improved and the cost of using this technology is reduced.

[redacted], technical consultant and former Director of the Center for Wireless Technology Security at the Stevens Institute of Technology, states:

At the Stevens Institute of Technology, [the petitioner] made significant contributions to establish the Institute's software-defined radio wireless networking test-bed. He was among the few leading researchers to design, develop, and validate this state-of-the-art facility for national mission-critical radio communication research. This test-bed has played a central role in several National Science Foundation (NSF) and Department of Defense (DOD) projects . . . because it is able to carry out real-time experiments on sophisticated radio

transmission schemes, measure complex data, and characterize interference in a wireless network.

[The petitioner] has also led his current research team at the University of California, San Diego, to realize low-cost, software defined radio based interoperability by integrating different radio waveforms and systems, and designing novel algorithms and design methodologies. Funded by the California Institute for Telecommunications and Information Technology and Ericsson, [the petitioner's] work has resulted in an advanced experimental platform for a software-defined radio system characterized by broadband signal and multiple antennas. This platform has many potentials for experimental research in cognitive radio, which promises greater productive use of existing radio frequencies, an important, but non-regenerative economic resource.

* * *

In the area of OFDMA technology, [the petitioner] has proposed several innovative algorithms and schemes for the enabling technology of OFDMA systems.

Associate Director of the Wireless Network Security Center and an Assistant Professor in the Department of Electrical and Computer Engineering at the Stevens Institute of Technology, states:

[The petitioner] was a member of my research group from 2001 to 2004, during which time he made important contributions to orthogonal frequency division multiplexing (OFDM) and its multiple access scheme, OFDMA. He was also instrumental in developing Stevens' software-defined radio test-bed facilities and in ensuring the success of several related projects funded by the National Science Foundation (NSF) and other government agencies.

, Director and Associate Professor, Department of Electrical and Computer Engineering, Stevens Institute of Technology, who also supervised the petitioner's Ph.D. research, states:

[The petitioner] creatively organized the signals received at the multi-user receiver side into an innovative signal model. He then invented an estimation method to identify the frequency offsets between different users and the multi-user receiver. [The petitioner] also created two methods to efficiently restore the synchronization among multiple users at the multi-user receiver.

While the petitioner's research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or published research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance in the field.

[REDACTED], Fellow, U.S. Army Research Laboratory, states:

[The petitioner] is an expert in orthogonal frequency division multiple access (OFDMA) for broadband radio communications and software define radio (SDR) prototyping for multiple antenna ('MIMO') ad hoc radio networking systems. These are considered to be enabling technologies for network centric operations as envisaged in the U.S. Army's Future Combat System [The petitioner's] contributions to these fields include new system modeling of interleaved OFDMA, novel multi-user synchronization schemes, new interference cancellation schemes, and state-of-the-art software defined radio design. The software define radio platform, which he is developing at the California Institute for Telecommunications and Information Technology (at the University of California - San Diego), is of particular importance because it offers a full life-cycle capability to design, emulate, prototype and verify new communications technologies and protocols, for both commercial and military applications.

[REDACTED], Senior Research Specialist, Ericsson, states:

As far as the industry is concerned, virtually all future systems will be based on OFDM. However, a critical obstacle to the realization of a practical OFDM-based system is the weak frequency synchronization between multiple users sharing the communication link. To overcome this obstacle, [the petitioner] has designed an innovative algorithm to estimate the frequency synchronization errors of multiple users and further developed an efficient algorithm to correct the radio waveform at the base station. In fact, the performance curve he has set may serve as a benchmark for designing the next generation of radio systems.

We note [REDACTED] statement that the petitioner's work "may serve as a benchmark for designing the next generation of radio systems." In the same manner as [REDACTED] discussed the potential of the petitioner's experimental platform. With regard to the witnesses of record, many of them they discuss what may, might, or could one day result from the petitioner's work, rather than how his past research already qualifies as a contribution of major significance in the field. A petitioner cannot file a petition under this classification based on the expectation of future eligibility. *See Matter of Katigbak*, 14 I&N Dec. at 45, 49. While the petitioner has performed admirably on the research projects to which he was assigned, the evidence of record does not establish that he has made original scientific contributions of major significance in his field.

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. While the petitioner has earned the admiration of those offering letters of support, the record lacks evidence showing that his work constitutes original contributions of major significance in his field consistent with sustained national or international acclaim. For example, the record does not indicate the extent to which his work has impacted others in his field nationally or internationally, nor does it show that the field of wireless technology has significantly changed as a result of his work.

In this case, the letters of support submitted by the petitioner's research superiors and professional contacts are not sufficient to meet this criterion. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796. Thus, the content of the experts' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a scientific researcher who has sustained national or international acclaim. Without evidence showing that the petitioner's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of contributions of major significance, we cannot conclude 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 co-authorship of an article in *IEEE Transactions on Communications* and of several published conference papers. The petitioner also submitted evidence of dozens of articles that cite to his Ph.D. research under the direction of [REDACTED] and [REDACTED]. These citations demonstrate the significance of the petitioner's articles to his field. As such, the petitioner has established that he meets this second criterion.

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

At issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the position must be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim. We agree with the director's finding that Calit2 has a distinguished reputation. With regard to the petitioner's role for Calit2, [REDACTED] states:

[The petitioner] has been employed by the University of California, San Diego since July 2004 and officially became an Assistant Project Scientist at Calit2 in July 2005. . . . As the principal investigator of Calit2's project initiative, "Calradio: Advanced Multiple Antenna Broadband Software Defined Radio Test-bed," [the petitioner] leads a team comprised of academic researchers, industry experts, engineers, and graduate students. He is responsible for identifying research direction, recruiting outstanding researchers, organizing research activities, investigating complex research problems, and demonstrating R&D achievements toward promoting public awareness.

In response to the director's request for evidence, the petitioner submitted a July 28, 2005 article printed from Calit2's internet site stating: "[The petitioner] has a two-year appointment in the Calit2 UCSD division as an assistant project scientist."

While the petitioner has performed admirably on the research project to which he was assigned, the documentation he submitted does not establish that his role as a temporary assistant project scientist was leading or critical for Calit2 or UCSD. There is no evidence demonstrating how the petitioner's role differentiated him from the other staff in the San Diego Division, let alone its more senior tenured faculty (including [REDACTED]).³ The documentation submitted by the petitioner does not establish that he was responsible for Calit2 or UCSD's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. Accordingly, the petitioner has not established that he meets this criterion.

In this case, we find that the petitioner meets only two of the regulatory criteria, three of which are required to establish eligibility. 8 C.F.R. § 204.5(h)(3). The petitioner has failed to demonstrate his receipt of a major, internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability. The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

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 a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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

ORDER: The appeal is dismissed.

³ A comparison of the petitioner's position with that of his superiors (such as [REDACTED] and [REDACTED]) indicates that the very top of his field is a level above his present level of achievement.