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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
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U.S. Citizenship  
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **MAY 27 2009**  
LIN 07 051 50972

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.

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).

*U. Grissom*  
ohn 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 and business. 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. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). Counsel further states: “[The petitioner] is both a ranking techno-executive and a brilliant research engineer with a long career of scientific achievement. He has performed as an extraordinary research scientist, engineer and business executive.”

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 8, 2006, seeks to classify the petitioner as an alien with extraordinary ability as an executive specializing in information technology (IT) and business development. The petitioner received his Ph.D. in Venture Technology Management from Hoseo University in Korea in 2005. According to a personal statement accompanying the petition, the petitioner has been a Visiting Scholar at the George Mason University School of Public Policy since 2003. The petitioner also states that he provides consulting services for Korean corporations in Washington, D.C. In response to the director's request for evidence, the petitioner refers to himself as a "Techno Executive" and submits a letter from the President of SCONET Co. Ltd. of Korea stating that the petitioner has served as its "Outside Director and U.S. Representative" since September 2006.

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.<sup>1</sup>

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

In a document accompanying the petition entitled "Honors and Awards," the petitioner claims to have received the following:

1. "Academic Award, Graduated 'Summa Cum Laude' with Ph.D. from Hoseo University;"
2. "Best Performance Award, Hummingbird Korea" (2001);
3. "Special Contribution Award from the Daedeok Research Complex" (1996);
4. "'Letter of Appreciation' from the Korea Power Engineering Company" (1989); and
5. "Presidential Award for Best Employee from the Korea Power Engineering Company" (June 1984)

In addressing the preceding honors and awards claimed by the petitioner, the director's decision stated: "[N]o evidence such as certificates that would establish that the awards were actually issued

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

to the petitioner or evidence to establish the significance of these awards has been submitted.” We concur with the director’s finding.

On appeal, the petitioner submits a certification from the “Dean of Hoseo Graduate School of Venture” stating that the petitioner “graduated as the best scientific achievement student” at the 2005 Spring graduation. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. The petitioner’s receipt of an academic honor limited to students at his university reflects local or institutional recognition rather than national or international recognition. Further, earning a “student” award is not an indication that the recipient “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’s receipt of such an award offers no meaningful comparison between him and experienced professionals in the field who have long since completed their educational training.

With regard to items 2 through 5, there is no evidence from the presenting organizations showing that the petitioner actually received those honors. Going on record without supporting documentary evidence is not sufficient for purposes of meeting 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)). A petition must be filed with any initial evidence required by the regulation. 8 C.F.R. § 103.2(b)(1). The nonexistence or other unavailability of primary evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). In this instance, there is no evidence establishing that the petitioner received items 2 through 5 or that they were nationally or internationally recognized prizes or awards.

The petitioner’s appellate submission includes a May 16, 2008 “Certificate of Career” from the Korea Power Engineering Company stating that he received a “Top employee award in Oct. 1984.” This award, limited by its terms to employees of the Korea Power Engineering Company, reflects institutional recognition rather than national or international recognition.

The petitioner also submits a document issued by the Chairman of the Knowledge Management & Electronic Document Management System (KM&EDMS) Committee, Korea Software Association, reflecting that the petitioner received a “Medallion of Merits” in September 2003. The document states: “You have demonstrated outstanding capability and made devotional efforts in the capacity of operation member of KM&EDMS Committee since foundation in 1997 until now and in the capacity of an Auditor of Committee since February 2001.” This honor reflects organizational recognition for the petitioner’s service on the KM&EDMS Committee rather than national or international recognition. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. In this instance, there is no evidence showing that the petitioner’s honor had a significant level of recognition beyond the presenting committee. Accordingly, the petitioner has not established that his “Medallion of Merits” constitutes a nationally or internationally recognized prize or award for excellence in the field.

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 a certificate reflecting his participation in an instructional seminar at an international meeting organized by the Secretary of Public Education, the Government of Jalisco, and the University of Guadalajara in Mexico in August 2005. This certificate was not accompanied by a certified English language translation. 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. Nevertheless, we cannot conclude that the petitioner's participation in this instructional seminar was tantamount to his membership in an association in the field requiring outstanding achievement.

On appeal, the petitioner submits a certificate from the Director of the Korea Terminology Research Center for Language and Knowledge Engineering (KORTERM), Korea Advanced Institute of Science and Technology (KAIST), stating: "I certify that [the petitioner] was a member of 'professional society for the research' organized by KORTERM (1998-2007) in KAIST." The petitioner also submits a certificate from the Korea Software Industry Association (KOSA) reflecting that he served as an "Auditor and Operation Committee Member" of the KM&EDMS Committee from 1997 to 2004. The petitioner's appellate submission includes general information regarding the KAIST and the KOSA, but there is no evidence (such as membership bylaws or official admission requirements) showing that KORTERM's "professional society for research" and KOSA's KM&EDMS Committee require outstanding achievements of their members.

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.<sup>2</sup>

The petitioner submitted articles in various Korean language publications, but the accompanying English language translations were incomplete and were not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, there is no evidence (such as circulation statistics) showing that the articles were in professional or major trade publications or some other form of major media. Finally, the authors of the published material were not identified as required by the plain language of this regulatory criterion.

In addition to the aforementioned deficiencies, in addressing this criterion, the director's decision stated:

It was noted in the RFE that all of the articles initially submitted were from 2001. In response to the RFE the petitioner submitted several additional articles from 2002, 2003 and 2004, again with summaries rather than complete translations. However, while reviewing these new articles a question has arisen concerning their validity. It would appear that at least two of the articles; "[Product Guide] Hummingbird[']s EIP" purportedly published on August 30, 2002 and "Major Corporations, Banks and Government Change to Enterprise Information: Hummingbird EIP 5.0" purportedly published on June 1, 2003, were actually cut from the same article and submitted as two separate articles. Both use the same graphics, format and paper, and both are clearly not complete versions of the articles they are purported to be. This apparent attempt to "bulk-up" the evidence calls into question the validity of all the articles submitted.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591. On appeal, the petitioner does not challenge the director's observations regarding the preceding articles, nor does he submit independent and objective evidence to overcome the director's findings.

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

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<sup>2</sup> 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 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).

As previously discussed, the petitioner’s appellate submission includes a certificate from the KOSA reflecting that he served as an “auditor” of the KM&EDMS Committee from 2001 to 2004. The petitioner has not established that his service as an auditor for this committee was tantamount to his participation as a judge of the work of others in his field or an allied one. Further, there is no evidence such as the names of the individuals evaluated by the petitioner, their level of expertise, the specific work judged by him, or documentation of his assessments. Without evidence demonstrating the petitioner’s participation as a judge in a manner consistent with sustained national or international acclaim, we cannot conclude 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 letters of recommendation praising his expertise and discussing his activity in the field. Expertise and activity in the field, however, are not necessarily indicative of scientific or business-related contributions of major significance. The record lacks evidence demonstrating that the petitioner has made original contributions that have significantly influenced or impacted his field.

██████████, President of Myongji University and a Foreign Associate of the U.S. National Academy of Engineering, states:

[The petitioner] received his Ph.D. in information technology from Hoseo University, where I served as President. . . . [The petitioner] was one of the most advanced students at the Graduate School of Ventures. He was in fact CEO of the Korean Branch of Hummingbird Corporation of Canada over the years. Hummingbird is one of the leading international software engineering companies.

[The petitioner] will bring invaluable professional expertise to the U.S. information industry, and his personal professional ties and experience in the information industry would be an extremely unique and valuable asset to the IT companies in the U.S.

\* \* \*

His thorough knowledge on the current capabilities and future development strategies of the information industry would be most welcome to the U.S. industry.

Counselor for Science, Embassy of the Republic of Korea, states:

I have had the privilege of knowing [the petitioner] for over three years, ever since he came to the United States as a visiting scholar at the School of Public Policy at George Mason University.

\* \* \*

His strong background in engineering and business has led him to serve as the representative and president of several high technology venture companies. His contributions and determination have placed him in the forefront of establishing IT venture industries in Korea.

\* \* \*

[The petitioner] has created and innovated new ideas and projects including a small-scale plant data acquisition system, an electric power plant secondary water early warning AI [Artificial Intelligence] system, an electronic reader and a Korean search engine.

His interest and success in business incubation reflects his personal skills as an engineer and an entrepreneur. He is an extraordinary individual who has the knowledge, but also the skills, the diligence and the commitment to his work.

letter indicates that the petitioner has helped implement system solutions for his employers, but there is no evidence (such as a patent) demonstrating that he was the original inventor of the technologies or that his work constitutes contributions of major significance in the field.

[REDACTED], Senior Economist, U.S. Bureau of Labor Statistics, states:

On several occasions, [the petitioner] was asked to conduct research on behalf of the Korean government. These studies were imperative to help the government modernize technology in Korea and improve the growth of the Gross National Product (GNP).

[The petitioner] has been for a number years a chief executive officer for the high technology company, Hummingbird Korea EIP [Enterprise Information Portal]. He has helped shape the

technology policies that have been beneficial to the Korean nation. His work has helped Korea emerge from financial difficulty and obsolete technology to become the fastest growing IT technology economy in the world. As a result of the Internet superhighway the Korean economy is now one of the most technologically advanced in the world.

[The petitioner] is preeminent in the field of IT technology in Korea. He was instrumental in changing the Korean economy, bringing needed advanced technology ideas to the government and the business community.

With regard to the research studies conducted by the petitioner, while the petitioner's research was 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 government. Any Ph.D. thesis or government-sponsored 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 conducts studies that add to the general pool of knowledge has inherently made a contribution of major significance in the field. Further, while the petitioner was responsible for Hummingbird's Korean operations, there is no evidence demonstrating that he was the original developer of Hummingbird's EIP software that was utilized in the governmental and private business sectors of Korea.

President and Executive Managing Director for iCBM Korea, Inc., states:

I have known [the petitioner] for more than seven years. I first met him while developing financial information for a large business investment. I used the software programs developed by [the petitioner's] company Hummingbird EIP for my evaluation of business investment issues. The success of my company was greatly contributed to by his insightful innovations.

As the President of Hummingbird and [sic] he has been credited with helping Korea become the number one Internet super highway country among the OECD [Organization for Economic Cooperation and Development] nations in the world. He is a talented leader and businessman with an understanding of the future of business technology.

We acknowledge that the petitioner has helped contribute to the success of Hummingbird's Korean operations and to a lesser extent the clients utilizing company's software products, but there is no evidence demonstrating that his work constitutes original contributions of major significance in the field. The petitioner has not established that the success of Hummingbird's internet software was primarily attributable to his work or that he invented the company's internet technologies. In addressing the incomplete English language translations of articles that discuss the introduction of Hummingbird's EIP technology in Korea, the director stated: "While the articles . . . give the impression that [the petitioner's] leadership of Hummingbird was beneficial, most attribute the company's success to having the right type of software at a time when Korea and its government were undergoing modernization." We concur with the director's observation.

Director, Gangwon Regional Innovation Agency, Korea, states:

I first met [the petitioner] at KOPEC (Korea Power Engineering Company, Inc.). . . . He was then as Manager of Computer Engineering Team responsible for operation of the mainframe computer systems for design and engineering of new power plant construction projects. Later he joined the Electric Power Research Center (EPRC), the R&D organization of KOPEC, serving as a team leader of I&C (Instrument & Control) Research Team under my supervision.

\* \* \*

In those days mainframe computers usually required the use of the IBM paper-card reader. [The petitioner] and his crew had successfully invented a PC-based card reader to replace the old IBM card reading machines. . . . The highlight part was stopping the PC operating system temporarily and handling it as just a real time microprocessor system and hardware interface. With new PC-based card readers, users could save more than U.S. \$10 million in using the mainframe computer systems for various engineering calculations including power plant simulators.

\* \* \*

His second project with me was to develop an expert system for the secondary water chemistry monitoring and diagnosis for power plants. Because of his dedication and contribution we were able to develop an artificial intelligence (AI) system for power plants for the first time in Korea. It helped power plant operators save a lot of time in monitoring and diagnosing the secondary water chemistry systems for two independent power plants at the same time. The new AI technology was later widespread in the construction of many new power plants with KEPCO [Korea Electric Power Corporation].

His true characteristic can probably be shown in the third project for relocation of power plant simulators. Two simulators were very old and out-dated, but still useful for training operators with KEPCO. . . . Everything was so well managed until the time of rebooting the simulators after relocation. . . . The computer and I&C team under his leadership had to spend many days and nights around the clock and to our astonishment were able to correct every error in computers and control panels to successfully revitalize the whole system.

█ states that the artificial intelligence technology he developed with the petitioner “was later widespread in the construction of many new power plants with KEPCO,” but the record does not include evidence to support his assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici* at 158. While the petitioner contributed to the success of the aforementioned projects undertaken by his employer, there is no evidence demonstrating that his work constitutes original contributions of major significance in the field.

President of Rayful System, Korea, states:

I met [the petitioner] when I was a sales director of “Yess World” in April 1998.

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During [sic] I did a business with him past six years, he raise the company up from a technology company to top class KM, EDM and EIP company . . . with his crews and distributors. At that time, several famous world class foreign companies compete in same market segment. Hummingbird Korea could not be a top ranked company without his leadership and his team members’ effort, he is good enough to take praise as all round player.

During his tenure, as a top sales man, technology executive, he involved many projects like Kim & Jang Law firm, KCC, Cheil Worldwide, Samsung Advanced Institute of Technology, HyunDai, LG Electronics and so on.

The petitioner has not established that his oversight of projects for Hummingbird’s clients was tantamount to original contributions of major significance in the 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 the petitioner’s original work has impacted others in his field nationally or internationally, nor does it show that the field of information technology has significantly changed as a result of technological innovations developed principally by the petitioner.

In this case, the letters of support submitted by the petitioner’s professional associates 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 an individual who has sustained national or international acclaim. Without evidence showing that the petitioner’s original 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.*

In response to the director's request for evidence, the petitioner submitted a research paper he co-authored entitled "A study of the Perceived Significance of KMS Functions focused on end-users of SI." There is no evidence showing that this research paper was published in a professional or major trade publication or some other form of major media. We note that authoring scholarly articles is inherent to scientific and engineering research. For this reason, we will evaluate a citation history or other evidence of the impact of the petitioner's articles when determining their significance to the field. For example, numerous independent citations would provide solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. On the other hand, few or no citations of an alien's work may indicate that his work has gone largely unnoticed by his field. In this case, there is no citation evidence showing that articles published by the petitioner have attracted a level of interest in his field consistent with sustained national or international acclaim.

In light of the above, 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.*

We withdraw the director's finding that the petitioner meets this criterion. 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.

The petitioner submitted third-party letters of recommendation and uncertified English language translations of Korean articles stating that he served as president in Hummingbird's Korean Office. We note that the record does not include a letter of support from Hummingbird's corporate headquarters in Canada discussing the nature of the petitioner's duties or the importance of his role to the company's operations. Nor is there an organizational chart or other similar evidence showing the petitioner's position in relation to that of the other company executives or employees. While the third-party letters of recommendation indicate that the petitioner performed admirably for Hummingbird's Korean Office, the documentation submitted by him does not establish that his position was leading or critical to the company as a whole. There is no evidence demonstrating how the petitioner's role differentiated him from the other executives who oversaw the company's regional offices, let alone Hummingbird's top corporate executives based at its Canadian headquarters. With regard to the other managerial positions held by the petitioner throughout his career, there is no evidence showing that these roles were leading or critical or that his past employers had a distinguished reputation. The documentation submitted by the petitioner does not establish that he was responsible for his employers' 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.

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

In addressing this criterion, the director's decision stated:

The petitioner is claiming to have received high remuneration for his services as an executive. The petitioner claims to have amassed \$4 million in assets but has only submitted evidence of roughly \$776,000 in the form of banks [sic] statements. The evidence does not establish that a significant portion of those asset[s] were gained through his work as an executive. The petitioner claims to receive \$300,000 in business investments from Korea each year but provides no evidence of receiving the payments or that such payments are directly based upon his performance of duties as an executive. He also claims to have received the equivalent of \$1.5 million USD [United States Dollars] in 2002 for his work as an executive. The petitioner claims that this salary "was among the highest paid for a president of a Korean corporation that year" but provides no documentary evidence to show what other similarly employed presidents were paid and that his was high relative to those others. Finally, as evidence of the salary paid the petitioner, he has submitted a tax record which indicates a total annual payment for 2002 of 126,844,972.<sup>3</sup> Presumably, these payments were in South Korea Won (KRW). The petitioner has provided no information concerning how he converted his salary into USD; however, a check of two separate currency converters available on the internet shows that on December 21, 2002, the above figure in KRW would be worth roughly \$106,962 USD – significantly less than the amount the petitioner claims to have been paid.

It is here noted that – in reference to both the currency conversion issues as well as the apparent attempt to submit the same article twice and represent it as two different articles – doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

We concur with the director's findings. On appeal, the petitioner does not challenge the director's observations regarding his remuneration, nor does he submit independent and objective evidence to overcome the director's findings. The plain language of this regulatory criterion requires the petitioner to submit evidence of a high salary "in relation to others in the field." The petitioner offers no basis for comparison showing that his salary was significantly high in relation to others in his field.

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

In this case, we concur with the director's finding that 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). Further, the record does not include evidence showing that the petitioner's national or

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<sup>3</sup> The certificate of income tax payment for 2002 submitted by the petitioner includes a conversion to U.S. currency reflecting an amount of \$1,489,977.

international acclaim as business executive or research engineer has been sustained. *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). Specifically, there is no evidence of achievements and recognition consistent with sustained national or international acclaim at the very top of the petitioner's field subsequent to his arrival in the United States in 2003. 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).

The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

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.