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

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[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
LIN 07 128 52980

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petition 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 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 for the petitioner argues that the petitioner meets the statutory requirements and 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 to the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and the 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, 60898-9 (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 has 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 13, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a research associate. 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 of the criteria outlined in 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 that, he claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).[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 stated that he has received the following awards: Best Thesis Award and the Toulouse Medal in 2002 from the Chemical Division of the Indian Institute of Science, a Senior Fellowship Award from the Indian University Grant Commission (1998-2001), a Junior Fellow Award from the Council of Scientific and Industrial Research (CSIR) (1996-1998), and Second Position University and Fourth Position University (no dates given).

The petitioner stated that these academic awards are significant because the Indian Institute of Science "is a premier post-graduate institution of research" and "is the best in India in terms of research output." The petitioner further stated that "Junior Research Fellowships are awarded by the [CSIR] with a minimum 55% marks" on a qualifying test administered by CSIR twice yearly. Senior Research Fellowships are awarded by the CSIR "to those holding a Master of Science, BE, Btech with minimum 60% marks and at least two years of post MSc, Btech, research experience."

There is no evidence demonstrating that the petitioner's fellowships and other university honors, regardless of the stature of the institution, are tantamount to nationally or internationally recognized prizes or awards for excellence in the field. The petitioner's receipt of an award

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

limited students at his university reflects institutional recognition rather than national or international recognition. Further, university study is not a field of endeavor, but rather training for future employment in a field of endeavor. Honors and scholarships limited by their terms to students are 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 honors offers no meaningful comparison between him and experienced professionals in the field who have long since completed their educational training. The petitioner does not address this issue further on appeal.

The petitioner has failed to establish 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 order to meet this criterion, published materials must be primarily about the petitioner and be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. Some newspapers, such as *The New York Times*, nominally serve a particular locality but would qualify as major media because of a significant national distribution.

In his initial submission, the petitioner claimed to meet this criterion based on citations to his research work by others in the field. In his August 1, 2008 request for evidence (RFE), the director advised the petitioner that "this criterion requires the evidence of articles about the beneficiary's work, not articles that reference them to support their own." The petitioner submitted no additional documentation in support of this criterion in response to the RFE and does not pursue the issue on appeal.

The petitioner has failed to establish 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 claims to meet this criterion based on his service as a reviewer for "such prestigious international journals" as the *Journal of Applied Physics*, *Journal of Electroceramics*, *Journal of American Ceramic Society* and *Journal of PhysicsD: Applied Physics*.

The petitioner submitted documentation indicating that he had reviewed a manuscript for the *Journal of American Ceramic Society* in 2005, for the *Journal of Applied Physics* in 2006 and four manuscripts for the *Journal of PhysicsD: Applied Physics* in 2006 and 2007. The petitioner also submitted documentation indicating that he had reviewed five manuscripts for the *Journal of*

Electroceramics between 2003 and 2007. The petitioner also provided evidence that he had volunteered to sit on a panel as a reviewer for the National Science Foundation (NSF).

In response to the RFE, the petitioner provided letters from several individuals regarding the selection of individuals to review manuscripts for publication. [redacted] a professor of Ceramic Science and Engineering, stated in an August 17, 2008 letter that:

> [W]hen an editor or associate editor assigns a reviewer to a scientific paper, there are multiple factors for which he/she is looking:
>
> - An expert in the field who is qualified to judge the technical quality of the work and who will provide a thorough, articulate analysis of the manuscript
> - Someone who will do so in a timely fashion
> - Someone that will not let their personal knowledge of individuals color their judgment.

[redacted] further stated that the first criterion is the most important, and that the petitioner's selection to serve as a reviewer "for many well-respected scientific journals . . . means that the journal editors/associate editors place value on his scientific judgment, and his ability to evaluate the work of others."

In an August 11, 2008 letter, [redacted] for the Institute of Physics Publishing, Ltd., confirmed that the petitioner joined "the panel of IOPP referees in June 2006" and had "accessed a total of 11 research papers for the *Journal of PhysicsD: Applied Physics* and one for *Journal of PhysicsD: Condensed Matters*." [redacted] did not provide any insight on the petitioner's selection as a referee.

[redacted] of the *Journal of Porous Materials*, stated in an August 27, 2008 letter:

> [T]he editorial board constantly looks for experts in the respective fields and ask [them] to peer review the submitted articles to the journal. Prior to selecting a reviewer from a particular field, the editorial board and the Editor-in-Chief go through various data bases including one's citation record, publications and their impact on science and technology etc.

[redacted] then summarized the petitioner's experience and stated that the petitioner "has been doing an excellent job in reviewing papers for our journal . . . He has made significant contributions to many important issues in electro-ceramic materials science. I will definitely call upon him to review more papers in the future where his expertise is needed." We note that the petitioner submitted no documentation of having reviewed any articles for the *Journal of Porous Materials*.

In his August 26, 2008 letter, [redacted] editor of the *Journal of the American Ceramic Society*, stated:

> In selecting reviewers, I seek those who have established a record of publication in high quality journals in the area of interest. I also seek those who have established a record of submission of quality reviews for the Journal. [The petitioner] has qualified in both categories. He has demonstrated breadth and depth of knowledge in the field of materials science and has also demonstrated insight and understanding with his reviews.

On appeal, the petitioner submitted documentation reflecting that he has served on a review panel for the NSF. However, the documentation indicates that the petitioner volunteered for this position and there is no evidence that he was selected based on his standing in his field. In fact, it appears that the original request was submitted to the petitioner's professor who turned down the request but suggested the petitioner contact the NSF to volunteer. The petitioner also provided documentation on appeal that he was asked to review a proposal for the Technology Foundation STW. However, this request is dated February 11, 2008, after the petition was filed. Accordingly, it cannot establish his eligibility for this visa classification under this criterion. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8 C.F.R. §§ 103.2(b)(1) and (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971).

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).

We cannot ignore that peer review is a routine element of the process by which articles are selected for publication in scientific journals. Occasional participation in the peer review process does not automatically demonstrate that the petitioner has sustained national or international acclaim at the very top of his field. Reviewing manuscripts is recognized as a professional obligation of researchers who publish themselves in scientific journals. Normally a journal's editorial staff will enlist the assistance of professionals in the field who agree to review submitted papers. It is common for a publication to ask multiple reviewers to review a manuscript and to offer comments. The publication's editorial staff may accept or reject any reviewer's comments in determining whether to publish or reject submitted papers. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has

reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position in the same manner as [redacted] and [redacted] we cannot conclude that he meets this criterion.

The petitioner has failed to establish 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 states that he meets this criterion based on accomplishments which included the following: that he designed and optimized a novel vacuum infiltration technique to process high aspect ration complex oxide structures, developed electrical characterization setup for sub-pico farad range capacitor measurements to study the size effects in ferroelectric nano/microstructures applications, highly accelerated life testing dielectric thin films for capacitor applications, and developed a laser annealing technique to reduce processing temperatures of Pb(Zr,Ti)O3 thin films up to 250°C.

The petitioner submitted letters of reference from several individuals as evidence that he meets this criterion. However, while these references describe the petitioner's achievements as novel and innovative and state that he contributed to his field of endeavor, they do not indicate how the petitioner's work constituted a contribution of major significance to his field. For example, Dr. [redacted] wrote on January 10, 2007:

> [The petitioner's] work on studies of nonlinear domain dynamics and higher order dielectric properties of various bulk and thin films of complex oxide ferroelectric materials, yielded a unified description of the frequency dispersion and dielectric nonlinearity in ferroelectrics under subcoercive driving fields. The results of this study are very useful to control the functionality of piezoelectric microelectromechanical systems at various operating fields and frequencies.

He also stated that the petitioner's "work in the field of unconstrained ferroelectric high aspect ratio structures is novel and very useful for future electronic device applications," and that "[h]is recent results of reducing processing temperatures of ferroelectric thin films using laser annealing are extraordinary. These results are particularly useful to reduce processing temperatures of various piezoelectric sensor elements on polymer based substrates." He does not, however, indicate how the petitioner's findings have been utilized or applied.

who served as the petitioner's post-doctoral advisor at Pennsylvania State University, stated:

> [The petitioner's] research has a variety of important societal implications. In particular, his work on ferroelectric microtube structures has opened up the possibility of preparing high frequency biomedical ultrasound arrays at a frequency range that was hitherto unavailable. The increasing frequency enables

> higher resolution ultrasound systems, which may in turn, enable earlier diagnoses of eye and skin cancers. His work on thin films for infrared imaging systems is designed to increase the sensitivity of night imaging systems, which has immediate applications for the military. Ultimately, as the systems become less costly, his work could ultimately result in inexpensive heads-up displays for automobile dashboards to increase visibility for night-time driving.

[redacted], Alcoa Professor Emeritus at Penn State University, writes in his letter of August 8, 2006, that the petitioner "has contributed significantly to the ferroelectric community through numerous publications in international scientific journals as well as oral presentations in international conferences." [redacted] does not specifically identify the petitioner's claimed contributions and does not describe how they constitute contributions of major significance to the petitioner's field. We consider the petitioner's published work in the criterion discussed immediately below.

an engineering fellow at L-3 Communications stated in a January 5, 2007 letter:

> In the case of pyroelectric devices, used as sensor elements for night vision applications, [the petitioner] has contributed significantly by developing processes to prepare donor modified perovskite films at temperatures compatible with standard CMOS read out circuitry.
>
> [The petitioner] has developed material processes, while at the same time performing extensive electrical and physical characterization. This ensured that the resulting films met device specifications, and ultimately improved system performance. The demonstration of low-temperature processing was a significant contribution to the field of pyroelectric materials.

[redacted] emeritus of Electrical Engineering at Penn State, stated in an October 9, 2006 letter that he had followed the petitioner's work since 1996 and believes he has contributed very substantially to our understanding of ferroelectric and anti-ferroelectric behavior in oxide ceramic, single crystal and thin films systems.

> Early studies of antiferroelectric lead zirconate thin films fabricated by laser ablation techniques gave important new information on antiferroelectric/ferroelectric switching, the speed and the stability of both forward and backward switching. In relaxor ferroelectric perovskite structure dielectrics the nature of the limited ordering which takes place in the B site caption of this ABO^3 structure has always been a challenge. Probably the most definitive progress was that produced by [the petitioner] working with Dr. Setter at EPFL. From direct observation o the B site behavior in lead magnesium tantalite they were able to distinguish clearly for the first time the current 111 random sheet model from the earlier space charge balanced Mg:Nb 1:1 ordering.

> A most difficult but crucial piece of work which contributed substantially to our understanding of the origin of the nano-polar regions which are at the core of relaxor ferroelectric behavior.

[redacted] of the Max-Planck Institute of Microstructure Physics in Halle, Germany, stated in an August 29, 2006 letter:

> The theory and techniques he developed are very unique and also economical to process such high aspect ratio structures and clarifies some critical processing issues in this scientific area. This is undoubtedly leading edge work in this field that can have a number of important applications. His research activity and studies at The Penn State University enables to solve certain challenges in microelectronic industries significantly . . . I believe the contributions of [the petitioner] have made represent major advances in this field and he is a pioneer in studying the structure path to establish the electrical as well as mechanical properties.
>
> In summary, [the petitioner's] research has already yielded significant discoveries that have and will have significant impact on future generation of electronic device systems.

The petitioner submits additional letters on appeal that describe the petitioner in similar terms. For example, [redacted] of the Nara Institute of Science and Technology, states that the petitioner "did an excellent contribution to the scientific world." [redacted] Director of the Center for dielectric studies and profession in the Materials Science and Engineering Department at Penn State, states:

> [The petitioner] is very bright, skilled in research, has excellent problem-solving skills, is highly motivated, well read, and hard working . . . His outstanding materials science and electrical engineering background and skills will assure that his future research has significant direct relevance to our nation's security.

The director noted that 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 researcher who has sustained national or international acclaim.

Counsel argues on appeal:

> There exists no reasonable method to inform Service of the petitioner's reputation within the scientific community other than obtaining letters from the noted scientific figures. Furthermore, Service mentions that the opinions presented n letters were written expressly for this proceeding. It is without doubt that any extraordinary ability alien applying for an immigrant petition would secure testimonials expressly for this purpose.

Nonetheless, it is reasonable that an individual who has made a contribution of major significance to his field of endeavor would be able to demonstrate that achievement without the necessity of soliciting testimonial letters from specific individuals. Further, even if the individual felt it necessary to solicit testimony of his or her contributions, it would also be reasonable that those writing on behalf of the individual would expressly state that contribution and why it was of major significance to the field. The ten regulatory criteria at 8 C.F.R. § 204.5(h)(3) reflect the statutory demand for "extensive documentation" in section 203(b)(1)(A)(i) of the Act. Opinions from witnesses whom the petitioner has selected do not represent extensive documentation. Independent evidence that already existed prior to the preparation of the visa petition package carries greater weight than new materials prepared especially for submission with the petition.

We acknowledge that the petitioner has published his work in distinguished journals. As stated above, however, publications and presentations are insufficient to meet the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they constitute contributions of *major* significance. *Kazarian,* 2009 WL 2836453 at *6. 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. 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 to the field as a whole. The petitioner's field, like most science, is research-driven, and there would be little point in publishing research that did not add to the general pool of knowledge 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. To be considered a contribution of major significance in the field of science, it can be expected that the results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work.

While the record includes numerous attestations of the potential impact of the petitioner's work, none of the petitioner's references provide examples of how the petitioner's work is already influencing the field. The evidence demonstrates that the petitioner is a talented researcher with potential, however, it falls short of establishing that the petitioner had already made contributions of major significance. The petitioner's citation record, however, will be considered below as it

relates to the publication of scholarly articles by the petitioner pursuant to 8 C.F.R. § 204.5(h)(3)(vi).

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

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

The petitioner submitted evidence of his authorship of numerous articles in prestigious professional publications. Moreover, the petitioner submitted evidence of a significant amount of articles that cite to his work. Accordingly, the petitioner has 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.

To meet this criterion, the petitioner must show that he performed a leading or critical role for an organization or establishment and that the organization or establishment has a distinguished reputation.

The petitioner claims to meet this criterion based on his position as a research associate at the Ecole Polytechnique Federale de Lausanne (EPFL) and Penn State University. While both institutions may have distinguished reputations, a finding we do not need to reach here, we cannot conclude that every postdoctoral researcher who plays an important role in a distinguished university's laboratory plays a leading or critical role for the lab or the university as a whole.

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.

In his letter submitted with the petition, [redacted] stated that the petitioner worked for the EPFL after receiving his PhD from the Indian Institute of Science, after which he began working at Penn State University "as a post doctorate." The petitioner provided no evidence of the leading or critical nature of his job in either of these institutions.

In response to the RFE, the petitioner submitted a letter from [redacted] of the Ceramics Section in the Energy Systems Division of Argonne National Laboratory operated by the University of Chicago Argonne, LLC. [redacted] stated that he collaborated with the petitioner on a testing issue that could not be resolved at the Argonne laboratory, and that the petitioner's "expert talent in materials science and developing novel thin film material composition systems and electrical testing-analysis are really necessary for the success" of [redacted] program. The petitioner also submitted letters from [redacted] of the U.S. Naval Research Laboratory and from [redacted] of the U.S. Army Research

Laboratory, both attesting to the essential nature of the petitioner's work at Penn State for the research activities of their respective organizations. However, the petitioner's consultation with the Argonne Laboratory and the influence of his work on that of the Navy and Army Research Laboratories do not indicate that he performed in a leading or critical role for Penn State University or for either of the organizations that use his work.

On appeal, the petitioner submits documentation indicating that he has served as co-principal investigator on several projects for the Army and Navy Research Laboratories at Penn State, and that his status was limited because of his immigration status. The petitioner, however, provided no documentation that acting as a principal investigator or co-principal investigator for any project was in a leading or critical role.

While the petitioner may have performed admirably on the projects to which he was assigned, there is no evidence showing that his role as a research associate was leading or critical to either organization. The petitioner's evidence does not demonstrate how his subordinate positions differentiated him from the other researchers employed at the university, let alone its tenured faculty and other principal investigators. A comparison of the petitioner's positions with those of his superiors and of the other individuals offering letters of support indicates that the very top of the petitioner's field is a level above his present level of achievement.

The petitioner has failed to establish that he meets this criterion.

Finally, 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. The petitioner, a postdoctoral research associate, relies on his moderate number of publications and presentations, citation record, the praise of his peers and his affiliation with Penn State University. While this may distinguish him from other postdoctoral researchers, we will not narrow his field to others with his level of training and experience. According to her curriculum vitae, [redacted] has authored over 180 papers and has several patents. Professor [redacted] is a member of the National Academy of Engineering, has written more than 500 research papers and has 20 patents. [redacted] has published over 540 articles and has 12 patents. While the caliber of these references is a favorable factor and has been taken into account in evaluating the petitioner's contributions, the record reflects that the top of the petitioner's field is far higher than the level he has reached.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of his field of endeavor. Review of the record, however, does not establish that the petitioner has distinguished himself to such an extent that she 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. 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.