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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship
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FILE:



Office: TEXAS SERVICE CENTER

Date:

OCT 26 2009

SRC 08 268 51393

IN RE:

Petitioner:



Beneficiary:

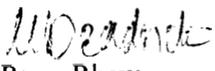
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.


Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not established he is among that small percentage who have risen to the very top of his field of endeavor. 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).

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 September 8, 2008, seeks to classify the petitioner as an alien with extraordinary ability as a mechanical engineering researcher. At the time of filing, the petitioner was working as an Assistant Professor in the Department of Mechanical and Industrial Engineering at Texas A&M University, Kingsville. The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of a major internationally recognized award, the regulation at 8 C.F.R. § 204.5(h)(3) outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. We find that the petitioner's evidence meets at least three of the regulatory criteria.

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

The petitioner submitted documentation indicating that that he reviewed a large number of manuscripts for multiple journals including *Journal of Mechanical Design*, *Mechanism and Machine Theory*, *Robotica*, *Robotics and Autonomous Systems*, and *Mechanics Based Design of Structures and Machines*. The petitioner also submitted evidence showing that he chaired technical sessions and reviewed papers for the American Society of Mechanical Engineers (ASME) "Design Engineering Technical Conferences & Computers and Information in Engineering Conference" and the ASME "International Mechanical Engineering Congress & Exposition." Accordingly, the petitioner has established that he meets this criterion.

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

The petitioner submitted several letters of support discussing his original research contributions. We cite representative examples here.

[REDACTED] Department of Mechanical and Industrial Engineering, Texas A&M University, Kingsville, states:

[The petitioner] has developed creative mechanism design methods to optimize mechanisms and improve machine performance. His research paper about these novel design methods has been published in . . . *Mechanism and Machine Theory*. This paper has been very heavily cited in our field, thus indicating the strong influence of [the petitioner's] work.

* * *

[The petitioner] developed innovative methods to optimize parameter adjustment. His methods provide convenient ways to obtain overall optimal adjustments of adjustable mechanisms. This is a significant and original contribution to the field of mechanism design.

* * *

A key issue for parallel manipulators is how to improve and optimize the flexibility. [The petitioner] proposed novel methods and made significant contributions to this issue. The design methods he developed have laid the foundation for successful applications of these mechanisms.

* * *

Hybrid mechanisms are mechanisms driven by two types of actuators, namely real-time non-adjustable (RTNA) and real-time adjustable (RTA). . . . The key issue for hybrid mechanisms is how to maximize the power requirement from RTNA actuators and minimize the power requirement from RTA actuators. [The petitioner] developed an innovative design method of hybrid mechanisms to solve that issue. His method is creative and unique and his contribution to the design of hybrid mechanisms is significant.

* * *

[The petitioner] developed an innovative spanning tree based topology design method that regards the topology of a compliant mechanism as a network of connections that contains at least one spanning tree in it. This creative method has significantly overcome the challenge from topology design of compliant mechanisms. For geometry design, [The petitioner] developed an innovative wide curve based design method that uses a certain number of parameters to generate and optimize the geometry of a compliant mechanism. His creative method has tremendously simplified the design of compliant mechanisms.

[Redacted], Center for Manufacturing Research, Tennessee Tech University, states:

[The petitioner] was credited for introducing and pioneering the spanning tree theory and wide curve to the topology and geometry design of compliant mechanisms. . . . A compliant mechanism must be flexible to generate the desired motion and stiff to sustain the external loads. Such conflicting and demanding design requirements make the design of compliant mechanisms a challenging task. [The petitioner's] topology and geometric design methodology offers a viable approach to design and optimize compliant mechanisms. . . . [The petitioner] has made significant contributions in this cutting-edge research.

* * *

[The petitioner] presented a novel design method for adjustable mechanisms and parallel mechanisms. The significance of his work is reflected in the frequent citation of his papers at both national and international levels.

[The petitioner] recently presented an innovative design method for multi-material compliant mechanisms that can be used for prostheses and other applications. This research is cutting-edge. His research work is important for the successful development of new prostheses that have high performance, low cost and easy maintenance.

████████████████████ and ASME Design Division Chair, Department of Engineering, University of Connecticut School of Engineering, states:

Although I do not know [the petitioner] personally, I became aware of his research through his publications about mechanism design and compliant mechanisms. His great achievements are significant and have had an important impact on improving the design theories and methods of mechanisms.

* * *

[The petitioner] made significant contributions on the design and development of important mechanisms including adjustable mechanisms, hybrid mechanisms and parallel mechanisms.... [The petitioner] has greatly simplified the design and development of these mechanisms.

* * *

[The petitioner] recently introduced novel design methods of compliant mechanisms. . . . For both topology design and geometry design of compliant mechanisms, [the petitioner] created innovative design methods. His spanning-tree-based topology design method and wide-curve-based geometry design method have greatly simplified the challenging design processes of compliant mechanisms.

████████████████████ Department of Mechanical Engineering, Brigham Young University, states:

The largest challenge for compliant mechanisms is the difficulty in designing them. [The petitioner] introduced two novel design methods of compliant mechanisms. In his topology design method, a compliant mechanism is considered as a network of input, output, support and other nodes. . . . This method significantly simplifies the topology optimization process and improves the design efficiency. With this method, no time-consuming deformation analysis and performance evaluation is needed for the large number of disconnected topologies. In [the petitioner's] geometry design method, every connection in a compliant mechanism is represented as a parametric wide curve in which the variable and complicated shape and size are fully described and conveniently controlled by a certain number of parameters. . . . With his creative method, the challenging geometry design of compliant mechanisms is greatly simplified. His findings have significant impacts on the design of compliant mechanisms.

[The petitioner] introduced a design method for multi-material compliant mechanisms. . . . [The petitioner] created multi-layer wide curves to represent the multi-material connections in a multi-material compliant mechanism. . . . A multi-material compliant mechanism can be modeled and designed as a set of connected multi-layer wide curves by using [the petitioner's] method, which significantly simplifies the tough design problem. . . . [The petitioner's] significant contribution is critical to the development of multi-material compliant mechanisms.

[Redacted] Department of Mechanical Engineering, Indian Institute of Science, states:

[The petitioner] invented novel design methods of compliant mechanisms and made great contributions in this area. . . . His methods constitute significant breakthroughs in designing compliant mechanisms.

* * *

[The petitioner] invented a novel topology design method by using spanning tree theory. Valid topologies contain at least one spanning tree among all the nodes and invalid topologies contain no spanning tree. [The petitioner] also invented a wide curve method that limits the number of parameters for dealing with shape and size in the design of compliant mechanisms. Both of these methods are major milestones in the advancement of compliant mechanisms design.

In my research group, compliant mechanisms with different topologies and geometries are studied and designed for different purposes. We found that [the petitioner's] innovative design methods of compliant mechanisms are indeed very valuable for our own research and development work. His topology design method effectively removes invalid topologies from consideration and greatly facilitates the topology optimization process of compliant mechanisms. His wide curve design method improves the performance of compliant mechanisms by using and optimizing curved connections. . . . Thus you can see the significant and widespread influence of [the petitioner's] contributions to our field.

In support of the preceding experts' statements, the petitioner submitted documentation showing dozens of cites to his published findings. These citations are solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. This evidence corroborates the independent experts' statements that the petitioner has made original contributions of major significance in his field. The record reflects that the petitioner's contributions are important not only to the institutions where he has worked, but throughout the greater field as well. Leading engineering scientists from around the world have acknowledged the value of the petitioner's work and its major significance in the mechanical engineering field. Accordingly, the petitioner has established that he meets this criterion.

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

The petitioner submitted evidence of his authorship of numerous articles in publications such as *Journal of Mechanical Design, Mechanism and Machine Theory*, and *Mechatronics*. As discussed, the petitioner also submitted evidence of dozens of articles that cite to his work. Accordingly, the petitioner has established that he meets this criterion.

In this case, the petitioner has satisfied three of the regulatory criteria required for classification as an alien of extraordinary ability. 8 C.F.R. § 204.5(h)(3). Pursuant to the statute and regulations, the petitioner qualifies for the classification sought.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the totality of the evidence establishes an overall pattern of sustained national acclaim and extraordinary ability. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has overcome the stated grounds for denial and thereby established eligibility for immigrant classification under section 203(b)(1)(A) of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.