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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

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[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date: **MAY 28 2008**

LIN 07 196 52717

IN RE:

Petitioner:

Beneficiary:

[REDACTED]

PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The petitioner is an energy related research and development company. It seeks to classify the beneficiary as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a Scientist IV. The director determined that the petitioner had not established that the beneficiary had attained the outstanding level of achievement required for classification as an outstanding researcher.

On appeal, counsel submits a brief and additional evidence. For the reasons discussed below, we uphold the director's decision. While counsel asserts that much of the evidence was not even mentioned by the director, we note that some of the copious documents submitted, such as a copy of the entire 2001 National Energy Policy, have no relevance to the petitioner's individual recognition in his field. Counsel further asserts that the denial of the petition will adversely affect the petitioner's government funded projects. Counsel cites no legal authority, and we know of none, that suggests that the importance of the projects on which the beneficiary is working is a consideration for the classification sought, which requires evidence of the beneficiary's individual recognition internationally as outstanding. Counsel states: "It would be ludicrous and unreasonable to assume that our government would fund such projects, only to employ individuals who were not the top in their industry." We will not infer international recognition by association with nationally important projects. Counsel cites no legal authority for the proposition that Congress intended this classification to cover all scientists working on government funded projects. It is the petitioner's burden to demonstrate that the beneficiary individually is recognized internationally as outstanding. We will address counsel's more specific assertions below.

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):

\* \* \*

(B) Outstanding professors and researchers. -- An alien is described in this subparagraph if --

- (i) the alien is recognized internationally as outstanding in a specific academic area,
- (ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

(iii) the alien seeks to enter the United States --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(ii) Evidence that the alien has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the alien has acquired the degree, and if the teaching duties were such that he or she had full responsibility for the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding. Evidence of teaching and/or research experience shall be in the form of letter(s) from current or former employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

This petition was filed on June 29, 2007 to classify the beneficiary as an outstanding researcher in the field of physics. Therefore, the petitioner must establish that the beneficiary had at least three years of research experience in the field as of that date, and that the beneficiary's work has been recognized internationally within the field as outstanding.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states that a petition for an outstanding professor or researcher must be accompanied by "[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition." The regulation lists six criteria, of which the beneficiary must satisfy at least two. On appeal, counsel asserts that the director erred in taking into account what is expected in the beneficiary's profession, a consideration that, according to counsel, is only appropriate when considering petitions filed under section 203(b)(1)(A) of the Act (relating to aliens of extraordinary ability). Counsel cites district court cases involving hockey players and non-precedent cases by this office for the proposition that the director imposed too high of a burden.

In contrast to the broad precedential authority of the case law of a United States circuit court, the AAO is not bound to follow the published decision of a United States district court in matters arising within the same district. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). Although the reasoning underlying a district judge's decision will be given due consideration when it is properly before the AAO, the analysis does not have to be followed as a matter of law. *Id.* at 719. Further, while 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all Citizenship and Immigration Service (CIS) employees in the administration of the Act, unpublished decisions are not similarly binding.

It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991)(enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)). The petitioner claims to have satisfied the following criteria.<sup>1</sup>

*Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field.*

It is significant that the *proposed* regulation relating to this classification would have required evidence of a major *international* award. The final rule removed the requirement that the award be "international," but left the word "major." The commentary states: "The word "international" has been removed in order to accommodate the *possibility* that an alien might be recognized internationally as outstanding for having received a major award that is not international." (Emphasis added.) 56 Fed. Reg. 60897-01, 60899 (Nov. 29, 1991.)

Thus, the standard for this criterion is very high. The rule recognizes only the "possibility" that a *major* award that is not international would qualify. Significantly, even lesser international awards cannot serve to meet this criterion given the continued use of the word "major" in the final rule. *Compare* 8 C.F.R. § 204.5(h)(3)(i) (allowing for "lesser" nationally or internationally recognized awards for a separate classification than the one sought in this matter).

The petitioner did not initially assert that the beneficiary meets this criterion. In response to the director's request for additional evidence, counsel asserted for the first time that the beneficiary received two "awards" that meet this criterion. First, counsel relies on the invitation to include the beneficiary in *Who's Who in Science and Engineering*. The invitation indicated that the edition would include over 40,000 individuals. The Frequently Asked Questions provided by the petitioner about this

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<sup>1</sup> The petitioner does not claim that the beneficiary meets any criteria not discussed in this decision and the record contains no evidence relating to the omitted criteria.

directory indicates that it includes “highly qualified individuals who are prominent because of their leadership positions, educational attainments, significant publishing or public speaking experience, or contributions to the communities in which they work.” (Emphasis added.)

Second, counsel noted that in 2005, the petitioner issued the beneficiary what it characterizes as a \$2,500 “bonus . . . in recognition of [the beneficiary’s] contribution to the DIII-D program.” While counsel notes that the petitioner employs 1,900 employees, the record contains no evidence regarding how many of these employees received similar bonuses.

The director concluded that the petitioner had not established that either “award” was major prize or award for outstanding achievement. On appeal, counsel asserts that inclusion in *Who’s Who in Science and Engineering* is limited to a small percentage of the field and that the work for which the beneficiary received his bonus from the petitioner is nationally important.

We concur with the director. Appearing as one of tens of thousands of other successful individuals in a frequently published directory is not a prize or award. Thus, it cannot meet the plain language requirement of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(A). Moreover, we are not persuaded that appearing in one of these directories, which are marketed to those who appear in them, is indicative of international recognition as outstanding in the field. Finally, a bonus from one’s own employer is not a *major* prize or award indicative of any recognition beyond one’s own employer.

In light of the above, the petitioner has not demonstrated that the beneficiary meets this criterion.

*Documentation of the alien’s membership in associations in the academic field which require outstanding achievements of their members.*

The petitioner initially asserted that the beneficiary’s inclusion in *Who’s Who in Science and Engineering* and his membership in the American Physical Society (APS) serve to meet this criterion. The petitioner submitted materials about APS but the materials do not reference the society’s membership requirements, a fundamental element of this criterion, set forth at 8 C.F.R. § 204.5(i)(3)(i)(B).

In response to the director’s request for additional evidence, counsel only discusses the beneficiary’s membership in APS. Counsel asserted that members “are individuals who have contributed to the advancement of physics by independent, original research or who have rendered some other special service to the cause of the sciences.” The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Counsel referenced “Exhibit 5 and [www.aps.org](http://www.aps.org).” Exhibit five includes information about the history and vision of APS, but nothing about the membership requirements. Significantly, the materials reflect that the society has 46,000 members. It is the petitioner’s burden to demonstrate the beneficiary’s eligibility and to submit the necessary evidence. Citizenship and Immigration Services is not required to research an alien’s

eligibility on the Internet. That said, we have visited the site referenced by counsel. The membership application for APS only requests contact information, a home address and education.<sup>2</sup> Article III of the society's constitution provides that the following individuals may be accepted for membership: "(a) graduate students specializing in physics; (b) teachers of physics; (c) other persons professionally trained in physics and engaged in its advancement; (d) persons engaged in lines of work related to physics; (e) persons who are not professionally engaged in either physics or related lines but whose interest and activity in the science would make them desirable Members."<sup>3</sup>

The director concluded that the record did not establish that APS requires outstanding achievements of its members. Counsel does not address this criterion on appeal.

Inclusion as one of 40,000 in a frequently published directory is not a membership. Moreover, as discussed above, such inclusion is not indicative of international recognition as outstanding. Finally, we concur with the director that the petitioner has not demonstrated that APS requires outstanding achievements of its members. The membership requirements are a fundamental element of the criterion set forth at 8 C.F.R. § 204.5(i)(3)(i)(B). Without evidence that the society requires outstanding achievements of its members, the petitioner cannot establish that the beneficiary meets the plain language of this criterion. Our review of APS' constitution reveals that APS does not require outstanding achievements of its members. Rather, APS is open to graduate students, teachers and those either working in the field or who have an interest in the physics.

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

*Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation.*

Initially, the petitioner provided a dictionary definition of "citation," which includes the "act of quoting," and discusses their importance in the scientific community. In response to the director's request for additional evidence, counsel reiterated the dictionary definition of "citation," noting that it includes "a formal statement of the achievements of a person receiving an academic honor." Counsel cites non-precedent decisions by this office and, apparently, service centers, that acknowledge the significance of citations in general. Once case cited by counsel allegedly involved an alien who had been cited more than 100 times, a factor not present in the matter before us.

The director concluded that the articles citing the beneficiary's work did not discuss his work sufficiently to be considered "about" his work. On appeal, counsel asserts that independent citations provide "firm evidence that other researchers have been influenced" by the beneficiary.

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<sup>2</sup> See <https://www.aps.org/memb-sec/join/MemInfo.cfm>, accessed on May 16, 2008.

<sup>3</sup> See <http://www.aps.org/about/governance/constitution.cfm>, accessed on May 22, 2008.

We are not persuaded that the dictionary definition of “citation,” which includes some definitions unrelated to the evidence submitted, is relevant. The regulation at 8 C.F.R. § 204.5(i)(3)(i)(C) does not suggest that any material “quoting” the beneficiary’s work is sufficient; rather it must be published material “about” the beneficiary’s work. The citations themselves are part of the record. We find it far more useful to evaluate the evidence submitted than to focus on how the word “citation” *can* be used. The citations in the record are articles about the work of the citing author, not the beneficiary’s work. The articles cite the beneficiary’s work as one of several articles for background information.

While 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all CIS employees in the administration of the Act, unpublished decisions, especially initial decisions by service centers are not similarly binding. Moreover, favorable decisions by the service centers are not written and their reasoning is not explained. Finally, the AAO’s authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved a similar immigrant petition, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 at \*3 (E.D. La.), *aff’d*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 534 U.S. 819 (2001).

Regardless of the various definitions for the word “citation,” we concur with the director that the citing articles in the record that we have reviewed are primarily about the author’s own work and not the work of the beneficiary. As such, they cannot credibly be considered published material about the beneficiary and cannot meet the plain language requirement of this criterion, set forth at 8 C.F.R. § 204.5(i)(3)(i)(C).

In reaching this conclusion, we are aware that evidence of wide and frequent citation, not present in this matter as will be discussed below, can reflect on the importance and influence of the work being cited. Such evidence, however, is far more relevant to the criteria at 8 C.F.R. § 204.5(i)(3)(i)(E) and (F).

In light of the above, the citation evidence submitted cannot serve to meet the plain language of this criterion and will instead be considered below.

*Evidence of the alien’s participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field.*

The record reflects that the beneficiary has refereed a manuscript for a Technology of Fusion Energy (TOFE) conference. The electronic-mail message asking the beneficiary to referee the manuscript reveals that they are refereed by “attendees.” The beneficiary also reviewed a manuscript for *Fusion Engineering and Design*.

In response to the director’s request for additional evidence, counsel discusses the peer-review process whereby referees review manuscripts submitted for publication in peer-reviewed publications. We are satisfied that we understand how peer-review works. Counsel asserts that peer reviewers are “scholars or other experts.” As stated above, the unsupported assertions of counsel do not constitute evidence.

*Matter of Obaigbena*, 19 I&N Dec. at 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 3 n.2; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506. Counsel then cites the online encyclopedia *Wikipedia*'s definition of "expert," including those who "have special knowledge of a subject beyond that of the average person."<sup>4</sup> The word "expert" does not appear in the regulation and the definition of this word is not at issue.

Even if we accept counsel's assertion that reviewers are "experts" in their area, simply having special knowledge in physics beyond that of the average person does not suggest that the individual is internationally recognized as outstanding. Rather, he can be said to be qualified. Even a physicist with special knowledge beyond that of an average physicist does not necessarily have international recognition as outstanding. Simply rising above the average is not sufficient to qualify for the first-preference classification sought.

As stated above, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. 56 Fed. Reg. at 30705. Thus, even evidence that clearly relates to a given criterion must still be evaluated as to whether it is indicative of or consistent with international recognition as outstanding if that statutory standard is to have any meaning.

We cannot ignore that the thousands of scientific journals and conferences are peer reviewed and rely on many scientists to review submitted articles. Thus, as stated by the director, peer review is routine in the field. Accordingly, we concur with the director that without evidence that sets the beneficiary 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 for a distinguished journal, the petitioner cannot establish that the beneficiary meets this criterion.

*Evidence of the alien's original scientific or scholarly research contributions to the academic field.*

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<sup>4</sup> Online content from *Wikipedia* is subject to the following general disclaimer:

*Wikipedia* is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

Obviously, the petitioner cannot satisfy this criterion simply by listing the beneficiary's past projects and demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research. Research work that is unoriginal would be unlikely to secure the beneficiary a master's degree, let alone classification as an outstanding researcher. Because the goal of the regulatory criteria is to demonstrate that the beneficiary has won international recognition as an outstanding researcher, it stands to reason that the beneficiary's research contributions have won comparable recognition. To argue that all original research is, by definition, "outstanding" is to weaken that adjective beyond any useful meaning, and to presume that most research is "unoriginal."

As stated above, outstanding researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. 56 Fed. Reg. at 30705. Any Ph.D. thesis, postdoctoral or other research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. To conclude that every researcher who performs original research that adds to the general pool of knowledge meets this criterion would render this criterion meaningless.

On appeal, counsel asserts that the petitioner submitted "numerous letters of support from preeminent professionals worldwide – including from authorities in the field of plasma physics who have never worked with [the beneficiary] and know him only by international reputation." Counsel mischaracterizes the record before the director. The petitioner submitted only four letters, three of which are from the beneficiary's immediate circle of colleagues. The fourth, while from an individual who has not worked with the beneficiary, has coauthored an article with one of the beneficiary's colleagues.

We will consider the letters below. The opinions of experts in the field, however, while not without weight, cannot form the cornerstone of a successful claim of international recognition. CIS 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). CIS 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; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. CIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

In evaluating the reference letters, we note that letters containing mere assertions of international recognition and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the beneficiary through his reputation and who have applied his work are the most persuasive. Ultimately, evidence

in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with international recognition should be able to produce unsolicited materials reflecting that recognition.

The beneficiary received his Ph.D. in 1998 from the Alfvén Laboratory in Stockholm, Sweden, under the direction of [REDACTED]. The beneficiary then worked for four years as a process engineer for Ericsson Network Technologies Sundbyberg, Sweden before joining the petitioning company.

[REDACTED] explains the importance and complexity of obtaining detailed measurements of electrons for development of fusion reactors. The beneficiary used a ruby laser to produce a detectable amount of Thomson scatter light, a challenge because the cross section for Thomson scattering is very low. This work contributed toward validating a numerical model. Dr. [REDACTED] provides more specifics regarding the beneficiary's experiments and concludes:

The research of [the beneficiary] is vitally important to the reversed-field pinch community and for the general understanding of the dynamo effect in plasma. His results are enabling scientists to determine the direction their research must pursue in order to achieve the ultimate goal of solving mankind's energy problems.

[REDACTED] a Professor Emeritus at Alfvén Laboratory, explains that fusion reactor plasma fuel cannot be contained by material but could be contained by a magnetic field. Dr. [REDACTED] proposed the EXTRAP configuration with a projected 100 percent ratio between plasma pressure and the pressure of the magnetic field (beta). The beneficiary was responsible for measuring the magnetic field, which ultimately demonstrated that Dr. [REDACTED] configuration was not stable. According to [REDACTED] however, "these experiments were crucial elements in the understanding of the problem of confining plasmas with a magnetic field" and were published in a prominent journal.

[REDACTED], a scientist VII at the petitioning company, asserts that the beneficiary is "part of an ongoing worldwide effort to develop a fusion reactor." Dr. [REDACTED] explains that in order for a fusion reactor to become efficient, the instabilities at high pressure must be controlled. Dr. [REDACTED] asserts that the beneficiary has contributed towards the development of such control systems. Specifically, the beneficiary designed algorithms and methods to successfully suppress neoclassical tearing mode in the DIII-D tokamak at the petitioning company. We acknowledge that this is the work that resulted in the beneficiary's bonus in 2005.

The record contains Internet materials from the U.S. Department of Energy (DOE) providing information on their Fusion Energy Sciences Major Facilities. The petitioner is listed as one of the facilities and DOE states that it has "unique capabilities to shape the plasma and provide feedback control of error fields that, in turn, affect particle transport and the stability of the plasma." Materials about the petitioner from 2003, however, assert that the researchers at DIII-D have "made major,

seminal contributions in the stability, confinement and heating of plasmas.” Thus, DIII-D already had a reputation for research on the confinement of plasmas before the petitioner’s 2005 work.

The beneficiary is a listed author for several publications on controlling neoclassical tear mode. The record lacks evidence that these articles are widely cited. The petitioner operates DIII-D on behalf of DOE, which funds the research. Thus, the fact that DOE recognizes and promotes the general accomplishments at DIII-D is notable but not determinative. No single article by the petitioner had been cited more than nine times as of the date of filing. This number of citations is not significant or consistent with international recognition as outstanding.

The beneficiary’s research is no doubt of value and has earned the beneficiary the respect of his distinguished colleagues. 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. The beneficiary is not widely cited and the record lacks evidence that trade publications or the general media have reported on the controls of neoclassical tear mode performed at the petitioning company. The record, while containing some favorable evidence, does not establish that the beneficiary’s work is already internationally recognized as outstanding.

*Evidence of the alien’s authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.*

The petitioner submitted evidence that the beneficiary has authored 16 published articles and has presented his work at several conferences. The Association of American Universities’ Committee on Postdoctoral Education, on page 5 of its *Report and Recommendations*, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition are the acknowledgement that “the appointment is viewed as preparatory for a full-time academic and/or research career,” and that “the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment.” Thus, this national organization considers publication of one’s work to be “expected,” even among researchers who have not yet begun “a full-time academic and/or research career.” Moreover, for physicists and astronomers, the Department of Labor’s Occupational Outlook Handbook provides that good written communication skills are important “because many physicists . . . write research papers.”<sup>5</sup> This information reinforces our position that publication of scholarly articles is not automatically evidence of international recognition; we must consider the research community’s reaction to those articles.

As discussed above, the beneficiary is not widely cited and the record contains no other evidence demonstrating the influence of the beneficiary’s publication record. As the petitioner has not demonstrated that the beneficiary’s publication record is consistent with international recognition in the field as outstanding, the petitioner has not demonstrated that the beneficiary meets this criterion.

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<sup>5</sup> See <http://www.bls.gov/oco/ocos052.htm#training>, accessed on May 22, 2008.

The petitioner has shown that the beneficiary is a talented and prolific researcher, who has won the respect of his collaborators, employers, and mentors, while securing some degree of international exposure for his work. The record, however, stops short of elevating the beneficiary to the level of an alien who is internationally recognized as an outstanding researcher or professor. Therefore, the petitioner has not established that the beneficiary is qualified for the benefit sought.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.