

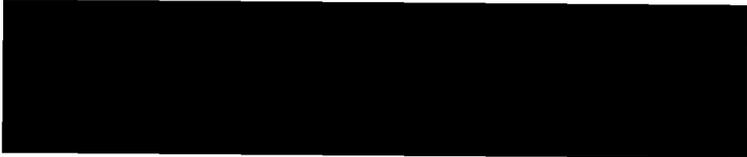
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



B3

Date **MAY 01 2012** Office: TEXAS SERVICE CENTER

FILE:

IN RE: Petitioner:
 Beneficiary:

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas 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 institution of higher education/university. It seeks to classify the beneficiary as an outstanding professor or 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 an assistant professor of computer information systems/marketing in the petitioner's college of business administration.¹ 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 professor or researcher.

On appeal, the petitioner submits a brief. The petitioner has not submitted any further evidence on appeal. For the reasons discussed below, the AAO concurs with the director that the record fails to establish that the beneficiary enjoys international recognition as outstanding in the academic field. Specifically, when we simply "count" the evidence submitted, the petitioner has submitted qualifying evidence under two of the regulatory criteria as required, judging the work of others and scholarly articles pursuant to 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F). As explained in the final merits determination, however, much of the evidence that technically qualifies under these criteria reflects routine duties or accomplishments in the field that do not, as of the date of filing, set the beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria.² *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

I. Law

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,

¹ The AAO notes this petition describes the beneficiary's job as an assistant professor of computer information systems. The petitioner has also submitted a confirmation of employment letter, describing the beneficiary's job as an assistant professor of marketing.

² The legal authority for this two-step analysis will be discussed at length below.

- (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.

II. International Recognition

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 the following six criteria, of which the beneficiary must submit evidence qualifying under at least two.

- (A) Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field;
- (B) Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members;
- (C) 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;
- (D) 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;
- (E) Evidence of the alien's original scientific or scholarly research contributions to the academic field; or
- (F) Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under a similar classification set forth at section 203(b)(1)(A) of the Act. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion. With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations.³ Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)). The court also explained the "final merits determination" as the corollary to this procedure:

If a petitioner has submitted the requisite evidence, USCIS determines whether the evidence demonstrates both a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2), and "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). Only aliens whose achievements have garnered "sustained national or international acclaim" are eligible for an "extraordinary ability" visa. 8 U.S.C. § 1153(b)(1)(A)(i).

Id. at 1119-20.

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination.⁴ While involving a different classification than the one at issue in this matter, the similarity of the two classifications makes the court's reasoning persuasive to the classification sought in this matter. In reviewing Service Center decisions, the AAO will apply the test set forth in *Kazarian*. As the AAO maintains *de novo* review, the AAO will conduct a new analysis if the director reached his or her conclusion by using a one-step analysis rather than the two-step analysis dictated by the *Kazarian* court. *See* 8 C.F.R. 103.3(a)(1)(iv); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003) (recognizing the AAO's *de novo* authority).

³ Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) (comparable to 8 C.F.R. § 204.5(i)(3)(i)(D)) and 8 C.F.R. § 204.5(h)(3)(vi) (comparable to 8 C.F.R. § 204.5(i)(3)(i)(F)).

⁴ The classification at issue in *Kazarian*, section 203(b)(1)(A) of the Act, requires qualifying evidence under three criteria whereas the classification at issue in this matter, section 203(b)(1)(B) of the Act, requires qualifying evidence under only two criteria.

III. Analysis

A. Evidentiary Criteria

This petition, filed on August 12, 2010, seeks to classify the beneficiary as a professor or researcher who is recognized internationally as outstanding in her academic field. The petitioner has submitted documentation pertaining to the following categories of evidence under 8 C.F.R. § 204.5(i)(3)(i).

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

The petitioner submitted evidence that the beneficiary was selected to participate in the Advertising Educational Foundation Visiting Professor Program (AEF-VPP)(2010).

The beneficiary's CV also lists, as an award, her having been a collaborator at the petitioning agency on a grant from the National Collegiate Inventor and Innovators Alliance (NCIAA). The beneficiary's work on this grant is also mentioned in a reference letter from [REDACTED] associate dean of the petitioning agency.

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).

Regarding the beneficiary's selection to participate in the AEF-VPP (2010), the documentation submitted by the petitioner states that this award is a two-week fellowship open to professors of advertising, marketing, communications and the liberal arts. The documentation further states that the criteria for selection are: "a strong statement expressing reason for and benefit of VPP experience for professor and students"; "little or no professional advertising experience"; "represent institutions of diverse size and location"; "research background/area of study of interest/benefit to potential host company"; and, "relevancy of lunchtime lecture topic". From a review of the selecting criteria, there is no evidence that the beneficiary's inclusion was based upon outstanding achievement in an academic field, indicative of international recognition in the field. We therefore find that this award does not constitute a major award.

Regarding the beneficiary having collaborated on a research grant, research grants simply fund the work of a scientist or professor. Every successful scientist or professor engaged in research, of which there are hundreds of thousands, receives funding from somewhere. Obviously the past achievements of the principal investigator are a factor in grant proposals. The funding institution has to be assured that the investigator is capable of performing the proposed research. The beneficiary acknowledges that she was not the principal investigator, but even had she been, a research grant is principally designed to fund future research, and not to honor or recognize past achievement.

In light of the above, the petitioner has not submitted qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)A).

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

The petitioner submitted evidence that the beneficiary is a member of the following organizations: American Marketing Association (AMA); American Academy of Advertising (AAA); Advertising Research Foundation (ARF); Students in Free Enterprise (SIFE); Project Management Institute (PMI); and, Society for Advancement of Management (SAM).

The petitioner did not submit evidence that any of the above associations require anything other than the beneficiary having attained certain educational requirements, such as a degree, or the payment of dues for membership. Thus, the petitioner has not established that the beneficiary is a member of associations which require outstanding achievements of their members.

In light of the above, the petitioner has not submitted qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)B).

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

The petitioner submitted three research papers, from researchers in Canada, China and Texas, respectively, containing citations to the beneficiary's work.⁵

The regulation at 8 C.F.R. § 204.5(i)(3)(i)C) requires evidence of published material about the beneficiary's work. A review reveals that the published material which cites the beneficiary's work is primarily about the author's own work, or recent work in the field generally, and not about the

⁵ The petitioner also submitted, as evidence under this category, a published list containing the beneficiary's name as a peer reviewer for the IEEE Security and Privacy Journal (2006). This evidence will not be considered here, since it is not relevant to this category. We will consider this evidence of the beneficiary's judging experience under 8 C.F.R. § 204.5(i)(3)(i)D).

beneficiary's work. As such, it cannot be considered published material about the beneficiary's work. However, the beneficiary's citation history is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond her own circle of collaborators. *See Kazarian*, 596 F3d at 1122. The citation history will be considered below in our final merits determination.

The petitioner also submitted a publisher's review of the beneficiary's book. The plain language of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(C) requires that the published material shall include the title, date, and author of the material. However, this book review does not include this information.

In light of the above, the petitioner has not submitted qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(C).

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 petitioner submitted evidence that the beneficiary has reviewed manuscripts for the *International Journal of Online Pedagogy and Course Design*, *International Journal of Web-Based Learning and Teaching Technologies (IJWLTT)*, and *IEEE Security and Privacy Journal*.

Regarding the *International Journal of Online Pedagogy and Course Design*, the petitioner has submitted documentation stating that the beneficiary is a member of the editorial review board, has published a paper in the journal, and was forwarded a manuscript for review. However, the petitioner has not submitted evidence that the beneficiary completed her review of the manuscript.

Regarding the *IEEE Security and Privacy Journal*, as stated above, the petitioner submitted a published list containing the beneficiary's name as a volunteer peer reviewer for that journal in 2006. In addition, regarding the *IJWLTT*, the petitioner has submitted a letter from the co-editor-in-chief, Dr. Mahesh (AKA Michael) S. Raisinghani, stating that the beneficiary has reviewed manuscripts as a member of the editorial review board of that journal since 2008.⁶

This evidence qualifies under the plain language of the criterion set forth at 8 C.F.R. § 204.5(i)(3)(i)(D). Pursuant to the reasoning in *Kazarian*, 596 F.3d at 1122, however, the nature of these duties may be and will be considered below in our final merits determination.

⁶ The AAO notes that the petitioner has also submitted a reference letter from [REDACTED] discussed more fully below, in which he does not mention the beneficiary's editorial duties with the *IJWLTT*, but does list a paper published in that journal which he co-authored with the beneficiary. The petitioner also submitted evidence that the beneficiary attended two conferences, one as a session chair, but no evidence that the beneficiary participated in any judging duties as part of the conferences.

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

As evidence relating to the beneficiary's original scientific or scholarly research contributions to the academic field, the petitioner has submitted six reference letters, all from the beneficiary's immediate circle of coauthors and collaborators. The plain language of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(E) does not require that the beneficiary's contributions themselves be internationally recognized as outstanding. That being said, the plain language of the regulation does not simply require original research, but an original "research contribution." Had the regulation contemplated merely the submission of original research, it would have said so, and not have included the extra word "contribution." Moreover, the plain language of the regulation requires that the contribution be "to the academic field" rather than an individual laboratory or institution.

We acknowledge that the beneficiary has authored several journal articles in the academic field, co-authored a book and a book chapter, and has presented her work at conferences, as is mentioned in several of the reference letters. If the regulations are to be interpreted with any logic, it must be presumed that the regulation views contributions as a separate evidentiary requirement from scholarly articles. In addition, even if we considered the original nature of the beneficiary's research to qualify it under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(E), and we do not, whether or not the contributions are indicative of the beneficiary's international recognition in the field is a valid consideration under our final merits determination. (We will consider the articles under 8 C.F.R. § 204.5(i)(3)(i)(F)).

dean of the college of business administration at the petitioner's institution, states that the beneficiary will be recognized as an outstanding professor after review of her accomplishments and qualifications. He does not describe specific contributions made by the beneficiary to the field, or state how the beneficiary's work has impacted the field of computer information systems or marketing.

assistant dean at the petitioner's institution, states he has co-authored two articles with the beneficiary.⁷ He also states that he has worked on a grant with the beneficiary to develop a course in renewable energy entrepreneurship. uses language identical to in stating that the beneficiary "clearly falls into the outstanding professor category and will be recognized as such after your review of her accomplishments and qualifications." Although he discusses how the beneficiary's work benefits the petitioning

⁷ also describes editorial positions of two professional journals the beneficiary will hold in 2011, at the International Journal of Systems and Software Engineering (IJSSE) and the International Journal of Online Pedagogy and Course Design, respectively. Regarding the beneficiary's prospective editorship at IJSSE, this event will have occurred, if at all, after the date of filing this petition and cannot be considered evidence of the beneficiary's eligibility after that date. See 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Regarding the beneficiary's prospective editorship at the International Journal of Online Pedagogy and Course Design, the petitioner has submitted evidence that this journal began judging prospective research papers in 2009. Therefore, we will consider the beneficiary's judging duties at this journal, if any, under 8 C.F.R. § 204.5(i)(3)(i)(D).

institution, he does not describe specific contributions made by the beneficiary to the field, or state that the beneficiary's work has impacted the field.

states that he met the beneficiary in 2007 when she was a visiting professor at Thunderbird School of Global Management in Arizona. He states that he has co-authored several papers with the beneficiary.⁸

an assistant professor at the Indian Institute of Foreign Trade (IIFT) in New Delhi, states that he worked with the beneficiary at IIFT from 2003 to 2008. He states that the beneficiary was the director of a program, the "Executive Post Graduate Diploma in Industrial Marketing (EPGDIM), for students visiting IIFT semi-annually from a company called . He states that as director of the EPGDIM program the beneficiary developed an online learning course, and contributed content for the course in the areas of Marketing and Information Systems. He states that the online course developed by the beneficiary is still in use by the IIFT. The beneficiary's curriculum vitae (CV) shows that from 2005 to 2008, as an assistant professor at IIFT, the beneficiary also designed a course for second-year MBA students, entitled "Information Technology Project Management." The beneficiary's CV states that the course prepared students to take an examination, administered by Project Management Institute (PMI) USA, for certification as a Project Management Professional (PMP).⁹ Although the beneficiary's work in developing online courses has benefitted the IIFT, does not suggest that the beneficiary's online courses are currently in use, or are becoming one of the "widely accepted standard techniques" as would be expected of a contribution to the field as a whole, nor does he provide examples of independent institutions of higher education/universities using the beneficiary's work.

was the beneficiary's doctoral advisor at the Indian Institute of Foreign Trade (IIFT). He states that he has co-authored a textbook with the beneficiary, which was published in India in 2004. He states that he bases his opinion that the beneficiary is an outstanding professor on "her proven accomplishments in the classroom and international concept distribution through her numerous articles and presentations."

a lecturer at the petitioning institution, states that has known the beneficiary for several years. He states that the beneficiary's "knowledge and ability to effectively communicate" have resulted in her having received favorable student evaluations. He states that the beneficiary's, "exceptional capabilities has (sic) resulted in the increased enrollment for Marketing students" at the petitioning institution. He states that the beneficiary "is a key researcher in the area of Advertising, especially exploring the inter-relationships between Advertising and Branding." However, does not describe specific contributions made by the beneficiary to the academic field, or state that the beneficiary's work has impacted the field.

⁸ The AAO notes that states, inconsistently with and the beneficiary's CV, that as of the date of his June 24, 2010 reference letter the beneficiary was already an associate editor of the IJSSE.

⁹The beneficiary's CV also shows that in 2005, after obtaining her doctoral degree, she obtained PMP certification from PMI USA.

The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have been considered above. United States Citizenship & Immigration Services (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 (Comm'r. 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, as the AAO has done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS 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 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l. Comm'r. 1972)).

The letters considered above primarily contain bare assertions of widespread recognition and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions have influenced the field. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof.¹⁰ Considering the letters in the aggregate, the record does not establish that the beneficiary's research is original or can be considered a contribution to the field as a whole.

In light of the above, the AAO withdraws this portion of the director's decision, and finds that the petitioner has not submitted qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(E).

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 several journal articles in the academic field and co-authored a book and a book chapter. The petitioner has also submitted evidence that the beneficiary has presented her work at several conferences. Thus, the petitioner has submitted evidence that qualifies under 8 C.F.R. § 204.5(i)(3)(i)(F).

¹⁰ *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Similarly, USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

In light of the above, the petitioner has submitted evidence that meets two of the criteria that must be satisfied to establish the minimum eligibility requirements for this classification. Specifically the petitioner submitted evidence to meet the criteria set forth at 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F). The next step, however, is a final merits determination that considers whether the evidence is consistent with the statutory standard in this matter, international recognition as outstanding. Section 203(b)(1)(B)(i) of the Act.

B. Final Merits Determination

It is important to note at the outset 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 nature of the beneficiary's judging experience is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond his own circle of collaborators. *See Kazarian*, 596 F. 3d at 1122. The petitioner submitted evidence that the beneficiary has reviewed manuscripts as a member of the editorial review board of the *International Journal of Web-Based Learning and Teaching Technologies (IJWLTT)*, and as a volunteer peer reviewer for *IEEE Security and Privacy Journal*. In addition, as stated above the petitioner submitted evidence that the beneficiary is a member of the editorial review board of the *International Journal of Online Pedagogy and Course Design*, but no evidence that the beneficiary completed any reviews for that journal.

The fact that the applicant is a member of the editorial board of the *IJWLTT*, while notable, is not by itself indicative of international recognition as outstanding. The AAO cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted articles. Thus, peer review is routine in the field; not every peer reviewer enjoys international recognition. The AAO agrees with the director that, without other evidence that sets the beneficiary apart from others in her field, such as evidence that she has reviewed manuscripts for a journal that credits a small, elite group of referees, or received independent requests from a substantial number of journals, the AAO cannot conclude that the beneficiary's judging experience is indicative of or consistent with international recognition.

Regarding the beneficiary's original research, as stated above, it does not appear to rise to the level of a contribution to the academic field as a whole. Demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research is not useful in setting the beneficiary apart in the academic community through eminence and distinction based on international recognition. 56 Fed. Reg. at 30705. Research work that is unoriginal would be unlikely to secure the beneficiary a Master's degree, let alone classification as an outstanding researcher. 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."

While the beneficiary has published several articles authored by the beneficiary in journals in the academic field, has co-authored a book and a book chapter, and has presented her work at several conferences, the Department of Labor's Occupational Outlook Handbook (OOH) provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. *See* www.bls.gov/oco/ocos066.htm (accessed June 23, 2011 and incorporated into the record of proceeding). The OOH expressly states that faculty members are pressured to perform research and publish their work and that the professor's research record is a consideration for tenure. Moreover, the doctoral programs training students for faculty positions require a dissertation, or written report on original research. *Id.*

The beneficiary's citation history is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond her own circle of collaborators. *See Kazarian*, 596 F.3d at 1122. The petitioner has submitted several articles containing citations to the beneficiary's work. The record contains no evidence that the beneficiary's articles have been widely cited or other comparable evidence that demonstrates that the beneficiary's publication record is consistent with international recognition.

In light of the above, the final merits determination reveals that the beneficiary's qualifying evidence, participating in the widespread peer review process and publishing articles that have not garnered widespread citations or other response in the academic field, does not set the beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria. 56 Fed. Reg. at 30705.

The petitioner has shown that the beneficiary is a talented professor of computer information systems/marketing, who has won the respect of her collaborators, employers, and mentors, while securing some degree of exposure for her 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.

IV. Conclusion

Review of the record does not establish that the beneficiary is internationally recognized as an outstanding researcher or professor. Therefore, the petitioner has not established the beneficiary's eligibility pursuant to section 203(b)(1)(B) of the Act and the petition may not be approved.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.



Page 13

ORDER: The appeal is dismissed.