



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF E- CORP.

DATE: AUG. 9, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a company that designs, manufactures, and markets information storage systems, seeks to classify the Beneficiary as an outstanding researcher. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B). This immigrant classification makes visas available to teachers or researchers who are recognized internationally as outstanding in their academic field.

The Director, Nebraska Service Center, denied the petition. The Director concluded that, while the Petitioner provided sufficient initial evidence, it did not show that the Beneficiary is recognized internationally as outstanding.

The matter is now before us on appeal. The Petitioner states that expert letters and other evidence provided establish that the Beneficiary has been recognized as outstanding in his field.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

By statute, beneficiaries under this immigrant visa classification should stand apart in their academic area through eminence and distinction based on international recognition. Specifically, section 203(b)(1)(B) of the Act describes eligible foreign nationals as follows:

(i) the [individual] is recognized internationally as outstanding in a specific academic area,

(ii) the [individual] has at least 3 years of experience in teaching or research in the academic area, and

(iii) the [individual] 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 relevant regulation requires that a petition for an outstanding professor or researcher demonstrate that the individual “is recognized internationally as outstanding in the academic field specified in the petition” and must include initial evidence that meets at least two of the six criteria listed at 8 C.F.R. § 204.5(i)(3)(i). If a petitioner submits the required initial evidence, we then consider the totality of the record to determine if it establishes that the beneficiary is recognized internationally as outstanding in the relevant field. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the “truth is to be determined not by the quantity of evidence alone but by its quality” and that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.”); *see also Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination).¹

II. ANALYSIS

The Director found the Petitioner gave evidence meeting at least two of the categories listed at 8 C.F.R. § 204.5(i)(3)(i). After considering all of the material submitted, however, the Director concluded that the record did not establish that the Beneficiary is internationally recognized as outstanding in his academic field. In the denial, the Director acknowledged the Beneficiary’s work peer-reviewing papers for academic journals and his authorship of published papers. He concluded, however, that the Beneficiary’s work did not exceed that of other researchers or indicate international recognition. The Director further noted that independent citations are a better indicator of international recognition, and that the level of citation to the Beneficiary’s work is not commensurate with a researcher recognized internationally as outstanding.

The Petitioner does not submit a brief or additional evidence on appeal, but indicates in a one-paragraph statement that “the extensive expert letters and other evidence confirm that the [B]eneficiary has achieved international recognition for his outstanding work.” Upon review, we agree with the Director that the Petitioner has provided evidence that the Beneficiary authored scholarly articles, and judged the work of others in the field through journal peer review. As the Petitioner has submitted the necessary initial evidence, we conduct a final merits determination that considers the entire record in the

¹ The immigrant visa 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.

(b)(6)

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context of whether or not the Petitioner has demonstrated that the Beneficiary is recognized internationally as outstanding. Section 203(b)(1)(B) of the Act; 8 C.F.R. § 204.5(i)(2), (3). Based on the filings, the Petitioner has not made the requisite showing.

The Beneficiary has worked, through the Petitioner, for [REDACTED] as a principal data scientist for the past three years. Prior to this position, he obtained a master's degree and Ph.D. degree in industrial engineering from [REDACTED]. The Beneficiary's resume lists four pending patent applications. It also states the Beneficiary has authored four publications, two of which are his theses and two of which appeared in conference proceedings. The Petitioner did not provide copies of these publications or evidence regarding their citation histories.

As evidence of his international recognition, the Petitioner and several of the Beneficiary's reference writers point to evidence indicating that his doctoral thesis was the second most-accessed dissertation on [REDACTED] in May of 2014. The record does not, however, contain an explanation of the significance of this accomplishment. For example, the Petitioner did not submit information regarding the pool of dissertations available on [REDACTED] or the number or qualifications of the individuals who use the service. Without context, a ranking of the second most-accessed dissertation on [REDACTED] for a given month does not show international recognition as outstanding in the field.

The Petitioner submitted several letters from experts in the field who complimented the Beneficiary's abilities. In order for their statements to be probative and meet the burden of proof in these proceedings, however, they must be supported by documentation. *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)). A number of the statements made in the letters are not corroborated by other evidence in the record. For example, Professor [REDACTED] of the [REDACTED] stated:

In addition, [the Beneficiary]'s work has served as a stimulus for the industry with many citations to his publications by others working in the field. [The Beneficiary] has enjoyed a high number of references in some of the most prestigious journals within the field; most notably his Ph.D. thesis has been designated as one of the top most-accessed and cited dissertations in the world.

The [REDACTED] printout provides the comparative frequency with which the Beneficiary's dissertation was downloaded in a given month. The record does not include documentation regarding the number of times other articles cited the Beneficiary's thesis or any of his other work. The Petitioner's initial submission contains a tab labeled "Published material citing [the Beneficiary]'s research." Under the tab lies one example of a citation to the Beneficiary's work that appeared in the [REDACTED]. This single citation stands in contrast to [REDACTED] statement that the Beneficiary has a "high number references in some of the most prestigious journals within the field."

In addition, despite [REDACTED] reference to "some of the most prestigious journals within the field," the Petitioner did not offer documentation regarding the reputation or prestige of the

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_____ the one example provided of a publication that cited his work. The article names the Beneficiary's work, '_____' as the authority for the following premise:

_____ The language of this proposition does not appear to be supported by the Petitioner's work, which deals with spatial data mining in the context of sensor signals at border crossings. Furthermore, the citing article does not provide the publication names of any of the sources it cites. For these reasons, as well as the lack of other evidence, the citation to the Beneficiary's work does not signal that he is internationally recognized as outstanding.

Other letters of recommendation from experts in the Beneficiary's field include those from _____ of the _____ and _____ of _____. Both describe the Beneficiary's skills in the field and the potential future impact of his work. _____ worked collaboratively on research with the Beneficiary in his capacity as a senior data scientist for the Petitioner. _____ stated that he met the Beneficiary when the Beneficiary was a student at _____ where he demonstrated impressive abilities. While complimentary, these letters are from individuals who interacted with the Beneficiary on a personal basis. As such, they are not indicative of the broader, international reputation required for this benefit.

Similarly, the Petitioner provided a letter from _____ a professor of Computer Science and Engineering at _____ who served on the Beneficiary's dissertation committee. He indicates that "[the Beneficiary]'s work on spatio-temporal data mining and trajectory analysis is definitely extensively used and recognized by researchers and scholars in the field as are evident from the download record on _____ of his PhD thesis." The Petitioner did not, however, provide evidence to corroborate or further explain the extensive impact claimed. Uncorroborated statements are not sufficient to meet the Petitioner's burden of proof. *Soffici*, 22 I&N at 165 (citing *Treasure Craft of California*, 14 I&N Dec. at 190). A letter from _____ formerly a senior principal data scientist for the Petitioner, similarly indicated that the Beneficiary has made original contributions to the field and that they could be applied in addressing cyber security issues. _____ indicated that he met the Beneficiary through employment with the Petitioner and explained the usefulness of the Beneficiary's work. Without corroborated details showing the Beneficiary's international recognition as outstanding, positive reference letters from former professors, collaborators, and colleagues are not sufficient to meet the Beneficiary's burden of proof.

The Petitioner also provided letters from individuals at client companies _____ and _____. The letters discuss the Beneficiary's work in providing creative and unique solutions to address their companies' needs. Although they note the Beneficiary's positive impact, the influence they describe is limited to their organizations and the specific reasons for which the Beneficiary was hired. As result, these letters are complimentary of the Beneficiary's abilities, but do not demonstrate international recognition.

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Copies of emails indicate that the Beneficiary reviewed four scholarly articles for [REDACTED] the editor-in-chief of [REDACTED] confirmed that the Beneficiary reviewed articles for the journal and stated that he asked the Beneficiary to perform this function due to his knowledge and expertise in the field. The Petitioner did not, however, provide background information on the publication, such as details regarding its scope of influence, selectivity, or the specific qualifications it requires of peer reviewers. Peer review is required for most scientific journals and is often therefore considered an occupational duty for those working in research or academia. Without more information, reviewing these articles does not demonstrate that the Beneficiary is recognized internationally as outstanding.

Lastly, the Beneficiary is listed as an inventor on four pending patent applications. These pending applications show the Beneficiary has been actively working in his field. Evidence in the record does not indicate, however, that the pending applications have garnered recognition beyond the specific clients for which they were produced. Without more, the filing of patent applications does not demonstrate international recognition as outstanding. For all of the reasons noted above, the Petitioner has not shown that, upon consideration of the record in its entirety, he is an outstanding researcher who is recognized internationally as outstanding in his academic field.

III. CONCLUSION

Although the Petitioner provided sufficient initial evidence, it did not establish the Beneficiary's international recognition as outstanding in his field, as required by the Act and regulation. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act. Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of E- Corp.*, ID# 17488 (AAO Aug. 9, 2016)

² The Petitioner also provided several emails inviting the Beneficiary to review other articles, but it did not submit documentation showing that he in fact reviewed them.