

U.S. Citizenship and Immigration Services Non-Precedent Decision of the Administrative Appeals Office

In Re: 8612089

Date: AUG. 27, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Outstanding Professors/Researchers)

The Petitioner, a steel manufacturing company, seeks to classify the Beneficiary as an outstanding professor or researcher in metallurgy and materials science. See Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B).

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary is internationally recognized as outstanding in his academic field.

On appeal, the Petitioner submits additional documentation and a brief asserting that the Director did not properly conduct the final merits analysis and that the overall record supports the Beneficiary's international recognition as an outstanding researcher in the fields of metallurgy and materials science.

Upon de novo review, we will sustain the appeal.

## I. LAW

The statute requires that beneficiaries under this immigrant visa classification should stand apart in their academic area based on international recognition. To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence and demonstrates the beneficiary is recognized internationally within the academic field as outstanding.

Specifically, section 203(b)(1)(B)(i) of the Act provides that a foreign national is an outstanding professor or researcher 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 [for a qualifying position with a university, institution of higher education, or certain private employers].

To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence set forth at 8 C.F.R § 204.5(i)(3)(i)(A)-(F). This, however, is only the first step, and the successful submission of evidence meeting at least two criteria does not, in and of itself, establish eligibility for this classification.<sup>1</sup> When a petitioner submits sufficient evidence at the first step, we will then conduct a final merits determination to decide whether the evidence in its totality shows that the beneficiary is recognized as outstanding in his or her academic field. 8 C.F.R. § 204.5(i)(3)(i).

Finally, the regulation at 8 C.F.R. § 204.5(i)(3)(ii) provides that a petition for an outstanding professor or researcher must be accompanied evidence that the foreign national has at least three years of experience in teaching and/or research in the academic field.

## II. ANALYSIS

The Beneficiary received his Ph.D. in Materials Science and Engineering from University				
	and Master of Science degree in Engineering from University			
He is currently employed as a "Research Engineer, Product Development" in the Petitioner's				
1	Division" at its facility" i	in		
Indiana.				

In his decision, the Director found that the Beneficiary met three of the evidentiary criteria, thus satisfying the initial evidence requirement, but that the totality of the record did not establish the requisite international recognition in his field. Upon review, we agree with the Director that the evidence demonstrates the Beneficiary's service as a judge of the work of others, original scientific or scholarly research contributions to the academic field, and authorship of scholarly articles. As he therefore meets the initial evidence requirements, we will consider all the evidence of record when conducting the final merits determination.

In a final merits determination, we analyze a researcher or professor's accomplishments and weigh the totality of the evidence to evaluate whether a petitioner has demonstrated, by a preponderance of the evidence<sup>2</sup>, that the beneficiary's achievements are sufficient to show that he has been internationally recognized as outstanding in the field of endeavor. See section 203(b)(1)(B)(i) of the Act; 8 C.F.R. § 204.5(i)(3)(i).

The Petitioner argues on appeal that it "provided sufficient evidence to demonstrate that [the Beneficiary] is recognized internationally as an outstanding researcher." It contends that the Director

<sup>&</sup>lt;sup>1</sup> USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of outstanding professors and researchers. See USCIS Policy Memorandum PM-602-0005.1, Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 20 (Dec. 22, 2010), https://www.uscis.gov/legal-resources/policy-memoranda.

<sup>&</sup>lt;sup>2</sup> A petitioner must establish that the beneficiary meets the eligibility requirements of the benefit sought by a preponderance of the evidence. Matter of Chawathe, 25 I& N Dec. 369, 375-76 (AAO 2010). In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. To determine whether a petitioner has met its burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. Id. at 376; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

disregarded the Beneficiary's "significant and outstanding achievements in the field of metallurgy and materials science," including his development of \_\_\_\_\_\_ of steel for military and commercial applications, his authorship of scholarly articles that have been widely cited by others in the field, and his extensive peer review activity for prestigious engineering journals. For the reasons discussed below, we agree with the Petitioner that it has demonstrated the Beneficiary's eligibility.

The record indicates that the Beneficiary has peer reviewed numerous articles for Materials Science and Engineering: A, Journal of Materials Research and Technology, Journal of Materials Engineering and Performance, Metallurgical and Materials Transactions A, Journal of Alloys and Compounds, Materials Characterization, Journal of Materials Processing Technology, and Polymer Testing. In addition, he served as an editorial board member for Progress of Electrical and Electronic Engineering and Modern Materials Science and Technology. The Petitioner also submitted documentation showing that the Beneficiary's peer review service is indicative of his international recognition as a researcher. For example, the Petitioner provided impact factor rankings reflecting the international stature of the aforementioned journals. Furthermore, the record includes a letter from of Journal of Materials Research and Technology, asserting that "submissions to the journal are peer reviewed by leading scientists of international standing." The Petitioner also offered a letter from of Metallurgical and Materials Transactions A, indicating that "reviewers are selected on the basis of their distinguished publication record in the field and for their knowledge of the particular field of expertise for a particular manuscript." The Beneficiary's peer review of a significant number of articles for reputable international

Furthermore, the Petitioner presented documentation showing that the Beneficiary has authored a substantial number of articles in journals with international circulation, including Acta Materialia, Journal of Biomedical Materials Research Part A, Scripta Materialia, Materials Science and Engineering: A, Materials Technology, Physical Chemistry Chemical Physics, Journal of Composite Materials, and Journal of Applied Mechanics. In addition, the record contains evidence demonstrating that the Beneficiary's scholarly articles have garnered an extensive number of citations internationally, many of which apply and build upon his work.<sup>3</sup>

journals is consistent with being recognized internationally as outstanding in his academic area.

Additionally, the Petitioner submitted refe	erence letters from experts	in the field, detailing the				
Beneficiary's specific contributions and explaining how those contributions are important to the						
academic field. For instance, regarding the Beneficiary's work to develop						
alloys,	a researcher at	Institute in Ireland,				
indicated that the Beneficiary devised an innovative "processing route called						
technique" and formulated a alloy that "showed a dramatic improvement in						
resistance over cor	nventional co	ounterparts."				
further stated that the Beneficiary's work "was instrumental in forming a new material						
for advanced appli	ications." Likewise,	professor of				

<sup>&</sup>lt;sup>3</sup> The Petitioner provided information from Google Scholar showing hundreds of citations to the Beneficiary's published work along with copies of numerous articles that cited to his work. For example, a substantial number of articles cite to his paper published in Acta Materialia in 2015. A review of these articles shows the significance of the Beneficiary's research and demonstrates that it has widely impacted the field. For instance, the authors of articles in Scientific Reports and International Journal of Plasticity elaborate on the importance of his findings relating to metallic materials.

materials science and engineering at University	neficiary's
concept is an excellent and new approach for	design of
materials." In addition,	note <u>d</u> that the
Beneficiary's work has advanced "the development of superior properties and	d work
" and that "research groups in various countries are now for	ollowing this path."
professor of mechanical engineering and materials science at	t the University of
stated that the Beneficiary "has innovated a steel for plant s	ressurized
applications. This steel exhibits three times higher compared t	to the conventional
grade by maintaining " Furthermore, with respect to the Ber	neficiary's research
aimed at producing steels for applications,	Research
Engineer at the Research Center, explained that the	ne Beneficiary has
contributed to "the development of next generation steels (referred to as	" and

that his work "led to the development of wrought \_\_\_\_\_\_ plates manufactured in the United States."

While we need not accept unsubstantiated claims, the documentation discussed above and other corroborating evidence of record, supports the aforementioned references' statements concerning the Beneficiary's original research contributions and his international recognition in the academic field. The record also indicates that the Beneficiary received the Award from the Association for Iron & Steel Technology (AIST) in 2015 for annual conference.<sup>4</sup> After review of the totality of the evidence in the record, which shows the numerous occasions on which he has been relied upon as an expert peer reviewer for reputable journals, the reach and impact of the Beneficiary's research in metallurgy and materials science, and the recognition that he has received as a result of this work, we conclude that it establishes that he is internationally recognized as outstanding in his field.

## III. CONCLUSION

The Petitioner has submitted evidence which establishes that the Beneficiary meets the requisite two evidentiary criteria and is internationally recognized as an outstanding researcher in his academic field.

ORDER: The appeal is sustained.

<sup>4</sup> The Petitioner offered a July 2019 letter from \_\_\_\_\_\_\_ for Technology Programs at AIST, explaining that \_\_\_\_\_\_\_ is the steel industry's \_\_\_\_\_\_\_ event" and that "nearly 300 papers" were submitted for nomination at this international conference.