



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 8820530

Date: AUG. 27, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, an electrical components manufacturer, seeks to classify the Beneficiary as an outstanding professor or researcher in the field of materials processing engineering. 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 overlooked or did not properly evaluate evidence in the record, and that this evidence establishes that the Beneficiary qualifies under the high standards of this immigrant visa classification.

In these proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will dismiss 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.¹ 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 internationally 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 Processing Engineering from [redacted] University of [redacted] in 2015. During his Ph.D. studies, he served as a visiting scholar at University of [redacted] from November 2011 until November 2014.² He later worked as a research fellow at the University of [redacted]. The Beneficiary is currently employed as a "Project Leader – [redacted] Computer Aided Engineering" at the Petitioner's [redacted] Design Center" in [redacted] Michigan.³

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.

¹ 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>.

² While at the University [redacted] the Beneficiary participated in an internship at [redacted] Center.

³ We note that the record reflects that the Beneficiary received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Beneficiary, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. See, e.g., *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *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). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. See *La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

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 evidence⁴, that the beneficiary's achievements are sufficient to demonstrate 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). In this matter, we agree with the Director that the Petitioner has not shown the Beneficiary's eligibility.

The Petitioner argues on appeal that the preponderance of the evidence shows that the Beneficiary "is internationally recognized as outstanding in the field of materials science" and that the Director did not consider the evidence in its totality. It contends that "the degree to which [the Beneficiary] has published academic work, performed scholarly review, and contributed original influential findings to the field, sets him apart in the academic community as an outstanding researcher of international recognition." In the final merits analysis, the Director's decision discussed the evidence relating to the Beneficiary's peer review activities, research contributions, published work, and citation history, and explained why that evidence, as part of the entirety of the record, was insufficient to demonstrate the Beneficiary's recognition as outstanding at the international level.

It is important to note that the controlling purpose of the regulation at 8 C.F.R. § 204.5(i)(3)(i) is to establish a beneficiary's 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. *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)). Therefore, to the extent that the Director first determined that the evidence satisfied the plain language requirements of specific evidentiary criteria, and then evaluated whether that evidence, as part of the entirety of the record, was sufficient to demonstrate the Beneficiary's recognition as outstanding at the international level, his analysis was in keeping with the statute, regulations, and policy pertaining to the requested immigrant visa classification.

As it pertains to the Beneficiary's participation as a judge of the work of others, the record includes a November 2017 letter from the editor-in-chief of *Journal of Applied Polymer Science* indicating that the Beneficiary has reviewed "more than 25 manuscripts" for that publication. This letter further states: "The evaluation of manuscripts by external referees is considered before an editorial decision is made, and the provided expertise in most cases is the basis for the according decision."⁵ The Petitioner also provided emails indicating that the Beneficiary reviewed one manuscript for *Polymer Composites* and two manuscripts for *Materials and Design*.⁶ An evaluation of the significance of this

⁴ 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).

⁵ As noted by the editor-in-chief of *Journal of Applied Polymer Science*, the publication's editorial staff ultimately decides whether to publish or reject submitted papers.

⁶ The record also contains invitations to review one manuscript each for *Polymer Composites* (November 2017) and *Polymer Engineering and Science* (December 2016), but the evidence does indicate that the Beneficiary actually completed these reviews.

experience is appropriate to determine if such evidence is indicative of the outstanding achievement required for this classification.⁷ Here, the Petitioner has not established that the Beneficiary's level of review is indicative of or consistent with being recognized internationally as outstanding in his academic area. For example, the Petitioner has not demonstrated the stature or ranking of Journal of Applied Polymer Science, Polymer Composites, or Materials and Design relative to other journals in the field.⁸

Furthermore, in many scientific and academic fields, peer review is a routine part of the process through which articles are selected for publication or presentation at conferences. Participation in the peer review process does not automatically demonstrate that an individual is internationally recognized as outstanding in his academic field. Without evidence that sets the Beneficiary apart from others in the field, such as evidence that he has completed reviews for a substantial number of distinguished journals or conferences relative to others in his field, served in editorial positions for highly regarded journals or publications, or chaired technical committees for reputable conferences, the Petitioner has not established that the Beneficiary's peer review experience has resulted in, or is reflective of, recognition at an international level for being outstanding in the field.

With respect to the Beneficiary's research contributions, the record includes reference letters discussing his projects for [redacted], University [redacted] [redacted] and the Petitioner.⁹ For example, regarding the Beneficiary's [redacted] engineering work, [redacted] manager of the [redacted] Team for [redacted] stated: "Using the software including [redacted] Abaqus, Modefrontier, Matlab, etc., [the Beneficiary] incorporated the advantages of the industry-available software and tools into his own innovative tool." [redacted] further indicated that the Beneficiary adapted his "innovative [redacted] model and [redacted] [redacted] model into the commercial software" and "was able to conduct [redacted] [redacted] prediction with higher forecast accuracy," but his statements are insufficient to demonstrate that the Beneficiary's findings have influenced the field of materials processing engineering in a substantial way that signifies international recognition or outstanding achievement in his field.

Likewise, [redacted] Executive Technical Lead for Safety at [redacted] asserted that the "tools and methods developed by [the Beneficiary] not only improve the [redacted] prediction accuracy but also provide a feasible/easy way for engineers' use." While [redacted] contended that the Petitioner's models and procedures "are ready to be transferred to various vehicle programs" at [redacted] for implementation in product development, he did not offer specific examples of how the Beneficiary's work has already been widely utilized in the industry or has otherwise influenced the field at a level commensurate with being internationally recognized as outstanding.

⁷ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 19 (stating that an individual's participation should be evaluated to determine whether it was indicative of being recognized internationally as outstanding in a specific academic area).

⁸ While the editor-in-chief of Journal of Applied Polymer Science claimed that his journal "is the largest scientific publication in polymer science, and number 4 by total citations in the ISI Polymer Science category," the record does not include supporting evidence (such as citation data or journal rankings) to corroborate his assertions. USCIS need not rely on the self-promotional material of the publisher. See *Braga v. Poulos*, No. CV 06 5105 SJO, *aff'd* 317 Fed. Appx. 680 (C.A.9).

⁹ While we discuss a sampling of these letters, we have reviewed and considered each one.

Additionally, [redacted] president of [redacted] indicated that he “came to know [the Beneficiary] during [redacted]’s collaboration with [redacted]” on a “research project to increase accuracy of [redacted] prediction for [redacted] plastics.” [redacted] pointed to the Beneficiary’s finding “that [redacted] of [redacted] plastics was [redacted] independent on [redacted] behavior plastics.” He also stated that the Beneficiary “developed and validated a [redacted] model to describe the [redacted] mechanism of plastics. Furthermore, [the Beneficiary] found out that the best time to start the calculation of [redacted] is when the gate is [redacted]” The record, however, does not indicate that this work has been extensively cited, has impacted the field as a whole, or has otherwise risen to the level of a contribution that is recognized internationally as outstanding.

With regard to the Beneficiary’s research relating to [redacted] forming, [redacted] Executive Vice President of [redacted] indicated that the Beneficiary “developed [redacted] tubes for manufacturing that can be utilized to [redacted] complex shapes, which usually cannot be achieved by [redacted] without a strong interface. His innovative work and findings are sure to be a spark for the researchers in the field of [redacted] forming.” The Petitioner, however, has not shown that the Beneficiary’s innovations stand out in terms of performance and cost perspectives from those developed by industry rivals and others, or that they have already been recognized internationally as outstanding in the industry.

In addition, [redacted] professor at [redacted], asserted that the Beneficiary’s project, entitled [redacted]
[redacted] received “the second prize of Outstanding Achievement Award of colleges and institutes [redacted] Award 2011, awarded by Ministry of Education, China. This is a national award for those technologies, which is [sic] newly developed and has [sic] been commercialized successfully for at least two years.” The Petitioner, however, did not provide a copy of the Beneficiary’s award to corroborate [redacted]’s assertion. Nor has the Petitioner offered evidence showing the award’s stature in the materials processing engineering field or its international significance. The Petitioner has not demonstrated that that the Beneficiary’s award is commensurate with “major prizes or awards for outstanding achievement in the academic field.” See 8 C.F.R. § 204.5(i)(3)(i)(A). Nor has the Petitioner shown that the award establishes the Beneficiary’s recognition as outstanding at the international level in his field.

Furthermore, [redacted] the Petitioner’s [redacted] Manager, stated the Beneficiary “researched and optimized the part [redacted] for an important project which is for next generation of [redacted] used in electrical vehicles.” [redacted] indicated that this “work helps to make sure the production are [sic] assembled well and under the dimension tolerance,” but did not explain how the Beneficiary’s work has had a meaningful impact to the academic field beyond the Petitioner or has otherwise widely influenced the field at a level commensurate with being internationally recognized as outstanding.

In regard to the Beneficiary’s paper in Polymer Testing, [redacted] asserted that the Beneficiary’s work “contributes to understanding of [redacted] distribution in [redacted] plastic composites.” [redacted] explained that “[a]n important advance in [the Beneficiary’s] paper is the development of a systematic and efficient method on characterizing [redacted] quantitatively, which is critical for the mechanical properties of [redacted]

plastics.” We recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, but not every research finding that broadens knowledge in a particular field renders an individual’s work as outstanding or internationally recognized in his academic area. The letters of support offered by the Petitioner do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Beneficiary’s work is viewed by the overall academic field, rather than by a solicited few, as substantially influential or otherwise indicative of international recognition.

The Petitioner maintains that the Beneficiary’s publication record renders him internationally recognized as outstanding in his field. The record indicates that the Beneficiary has published approximately 20 research papers since 2008. As authoring scholarly articles is often inherent to the work of professors and researchers, the citation history or other evidence of the influence of the Beneficiary’s articles can be an indicator to determine the impact and recognition that his work has had on the field and whether his articles demonstrate that he is internationally recognized as outstanding in the academic field.¹⁰ Here, the Petitioner submitted July 2019 information from Google Scholar indicating that the Beneficiary’s three highest cited articles, entitled [REDACTED]

[REDACTED]” (October 2011), [REDACTED]
[REDACTED]
(April 2015), and [REDACTED]

[REDACTED] (August 2008), each received 59, 23, and 17 citations, respectively.¹¹ The Petitioner does not specify how many citations for each of these individual articles were self-citations by the Beneficiary or his coauthors. Moreover, in response to the Director’s notice of intent to deny and again on appeal, the Petitioner provided updated Google Scholar lists (dated September 2019 and November 2019) reflecting a nominal increase of citations to his individual articles. The Petitioner did not demonstrate how many of these additional citations occurred in papers published prior to or at the time of initial filing. See 8 C.F.R. § 103.2(b)(1).

Regarding the citation rate of the Petitioner’s work, [REDACTED] contended that “the average citation rate of [the Beneficiary’s] papers published in 2015 is 11.0, which is 6.70 times higher than the rate in Computer Science-Theory & Methods and 2.57 times higher than the rate in Engineering-Manufacturing for that year.” [REDACTED] further asserted: “Similarly, the average citation rate of [the Beneficiary’s] papers published in 2016 is 3.3, which is 3.07 times higher than the rate in Computer Science-Theory & Methods and 1.17 times higher than the rate in Engineering-Manufacturing in that year.” The record, however, does not include supporting evidence to corroborate [REDACTED]’s claims, such as the citation rate data for Computer Science-Theory & Methods and Engineering-Manufacturing that served as the bases for his assertions or other evidence used for comparing an author’s citation rate to other researchers or professors in the field. Additionally, the Petitioner has not demonstrated that papers with an above average citation rate are necessarily internationally recognized in the academic field as outstanding. Moreover, [REDACTED] did not indicate whether he factored in any self-citations in compiling the Beneficiary’s citation rate.

¹⁰ See USCIS Policy Memorandum PM 602-0005.1, supra, at 20 (stating that an individual’s authorship of articles should be evaluated to determine whether it was indicative of being recognized internationally as outstanding in a specific academic area).

¹¹ The Beneficiary’s remaining articles were each cited less than 10 times.

While the Beneficiary's citations, both individually and collectively, show that the field has taken notice of his work, the Petitioner has not established that the number of citations received by his published and presented work is sufficient to demonstrate a level of attention commensurate with being recognized internationally in his field. See section 203(b)(1)(B)(i) of the Act. Nor has the Petitioner shown that the amount of citations to the Beneficiary's work represents interest at a level consistent with outstanding achievement in the academic field.

As documentation of published material in professional publications written by others about the Beneficiary's work, the Petitioner submitted examples of several articles that cited to his papers. The submitted articles are about the authors' own research and not the Beneficiary's work. See 8 C.F.R § 204.5(i)(3)(i)(C). Regardless, a review of those articles does not show the significance of his research or demonstrate that it has widely impacted the field.¹² For instance, the Petitioner provided an article, entitled [REDACTED] (Results in Physics) in which the author, [REDACTED] referenced the Beneficiary's paper in International Journal of Advanced Manufacturing Technology. While [REDACTED] cited to the Beneficiary's finding "that an accurate description of the mechanical behavior of [REDACTED] is needed to predict the [REDACTED] parts," his article does not highlight the Beneficiary's work as outstanding, nor does it distinguish the Beneficiary's written work from the 34 other referenced papers.

Another article presented by the Petitioner, entitled [REDACTED] [REDACTED] (Polymers) cites to the Beneficiary's paper in Polymer Testing. However, the article in Polymers does not differentiate his paper from the 49 other cited papers. The Polymers article cited to the Beneficiary's paper and another paper written by a research team in France for reporting that [REDACTED] computed tomography offers "[a] very promising non-destructive technique for microstructure characterization," but concluded that these findings were "only suitable for small specimens." Moreover, the article does not indicate that the Beneficiary's paper in Polymer Testing is outstanding or otherwise viewed as widely influential in the academic field.

While the evidence indicates that the Beneficiary is a skilled researcher, the Petitioner has not established that he stands apart in the academic community through eminence and distinction based on international recognition. After consideration of the totality of the evidence of the Beneficiary's work in the field of materials processing engineering, including evidence of his published research articles, citations to those articles by other researchers, his service as a peer reviewer, and the opinion of experts in the field, we conclude that it does not sufficiently establish that he has been internationally recognized as an outstanding researcher.

III. CONCLUSION

The evidence in the record demonstrates that the Beneficiary meets at least two of the evidentiary criteria, and thus the initial evidence requirements for this classification. A review of the totality of the evidence, however, does not establish that he is internationally recognized as an outstanding

¹² Although we discuss representative sample articles here, we have reviewed and considered each one.

professor or researcher in his academic field. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.