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

(b)(6)

DATE: APR 2 8 2015 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: PETITIONER:
BENEFICIARY:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg
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. We will sustain the appeal; the petition will be approved.

The petitioner seeks classification as an alien of extraordinary ability in the field of information systems, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to petitioners who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. Section 203(b)(1)(A)(i) of the Act limits this classification to petitioners with extraordinary ability in the sciences, arts, education, business, or athletics. The director determined that the petitioner had not established his sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner asserts that he meets the criteria under the regulation at 8 C.F.R. § 204.5(h)(3)(iv), (v) and (vi); is at the very top of his field; and has sustained national or international acclaim. For the reasons discussed below, the petitioner has established his eligibility for the exclusive classification sought. Specifically, he has submitted evidence that satisfies at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x), and has demonstrated that he is one of the small percentage who is at the very top in the field of endeavor, and that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3). The petitioner has established his eligibility for the exclusive classification sought.

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):
>
> (A) Aliens with extraordinary ability. – An alien is described in this subparagraph if –
>
> (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability"

refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate his sustained acclaim and the recognition of his achievements in the field through evidence of a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he must submit sufficient qualifying evidence that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The submission of evidence relating to at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See 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); *see also Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011) (affirming USCIS' proper application of *Kazarian*), *aff'd*, 683 F.3d. 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *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 USCIS examines "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").

II. ANALYSIS

A. Evidentiary Criteria

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner, as initial evidence, may present evidence of his one-time achievement that is a major, internationally recognized award. In this case, the petitioner has not asserted or shown through his evidence that he is the recipient of a major, internationally recognized award at the level similar to that of the Nobel Prize. As such, as initial evidence, the petitioner must present at least three of the ten types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

In his August 5, 2014 decision, the director concluded the petitioner submitted evidence that satisfies the judging criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(iv) and the authorship of scholarly articles criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(vi). The evidence in the record supports the director's conclusion. Specifically, the petitioner presented a July 10, 2013 letter from an editorial board member of indicating that the petitioner has served as a reviewer for the publication, in addition to submitting email correspondence requesting that he review manuscripts for a given publication. In addition, the petitioner has submitted evidence establishing his authorship of scholarly articles, including: (1)

Accordingly, the

petitioner has presented evidence showing that he meets the criteria under the regulation at 8 C.F.R. § 204.5(h)(3)(iv) and (vi).

Moreover, the petitioner has submitted sufficient evidence showing that he meets the original contributions of major significance criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(v). Specifically, in his May 15, 2003 letter, Associate Professor of Information Systems, School of Business, states that the petitioner "has made an indelible impact in several important research areas," including "the information (preference) markets and Internet-based 'wisdom of crowds.'" Dr. indicates that the petitioner was "the first to study the incentive mechanisms of information markets, the reliability of preference revelations, and the robustness of preference aggregations and outcomes of such markets." In his March 31, 2014 letter, Head of Management Information Systems Department, states that the petitioner "was a pioneer in putting forth the fundamentals of a preference market." Dr. further states that the petitioner "conceptualized the fundamentals of such a market, and designed tangible incentives that drove traders' participation" and that the petitioner "introduced the concept of play money" as an incentive to encourage participation. Dr. indicates that the petitioner's research results "were fundamental in establishing directions for companies to utilize preference markets as an efficient and effective way to evaluate ideas and innovations that come from an open innovation system." In his June 4, 2013 letter, Dr. states that the petitioner's research "has provided guidelines for the successful implementation of open innovation platforms." Board of Overseers Professor of Information and Decision Sciences, states that the petitioner is "best known for his novel research [in] information preference markets." The evidence in the record, including evidence not specifically mentioned above, is consistent with a finding that the petitioner has made original contributions of major significance in the field of information systems.

Other evidence in the record supports a finding that the petitioner's original contributions are of major significance in the field. Notably, companies, such as , have implemented the petitioner's research findings in their business operations. According to Initiatives Project Leader, IT Process Services, Corporate Technical Services, the petitioner has "made significant contribution" in the area of preference market research at edgelab, an academic research partnership between and the . Mr. states that has relied on the petitioner's research to explore the commercialization of dormant intellectual property (IP) and to conduct internal strategic planning. Mr. further states that the petitioner's contributions in this area has resulted in and forming a partnership that "commercialize[d] internet-connected sensors, dashboards, egg trays, power strips and most recently an air conditioning unit." Board of Trustees Distinguished Professor, School of Business Administration, states that the petitioner was "the driving and creative force" at edgelab. Dr. Marsden indicates that the petitioner and his colleagues "proposed, developed, and implemented electronic preference markets involving technologists from around the globe" that led ' to invest significantly in developing and utilizing preference markets as an alternative to and supplement for expert panels" used to evaluate potential technologies. According to a 2014 article entitled ' ," has relied on crowdsourcing to solve engineering problems and has engaged in an open innovation push through

crowdsourcing. The article also discusses partnership with to produce appliances, including "a smart air conditioner." Mr. confirms that the petitioner's research has steered these business decisions.

In addition, the petitioner has submitted evidence showing that he has authored and published scholarly articles that other researchers have cited and relied upon in their own research, including examples that authors have cited the petitioner's work as the sole authority for the proposition that companies can rely on preference markets as an early-stage emerging-technology screening and the effectiveness of using play money.

Accordingly, the petitioner has presented evidence of his original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field of information systems. The petitioner has met the criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(v).

B. Final Merits Determination

As the petitioner has submitted the requisite initial evidence, we will conduct a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) that he enjoys a level of expertise indicating that he is one of a small percentage who have risen to the very top of the field of endeavor, and (2) that he has sustained national or international acclaim and that his achievements have been recognized in the field of expertise. Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010). Based on the evidence in the record and consistent with *Matter of Price*, 20 I&N Dec. 953 (Act. Assoc. Comm'r 1994), the petitioner has made the requisite showing.

The petitioner has submitted evidence, including reference letters, showing that his original research, including research in the area of preference markets, has significantly impacted the field of information systems. Companies, such as have relied on the petitioner's research findings in their business operation. According to Mr. the petitioner's research has "contributed to the success of and other companies." Mr. concludes: "to understand the tangible impact of preference markets research on , one need only . . . visit your local and purchase a product developed through the collective power of markets!" Professor states that many companies, including and have "either adopted the use of information (preference) markets or are considering using the technique for innovation and new product development." In addition, the petitioner has submitted evidence showing that his merger and acquisition model can be useful for small and medium sized companies. For example, , a company located in China, relied on the petitioner's model to optimize resources allocation and reduce operation cost. According to a March 18, 2014 letter from Dr. President of ., the petitioner's model "shortened 20% of the management processes and reduced 10% of the operational costs." In addition, Dr. states in his June 9, 2013 letter that the petitioner's research on merger and acquisition has "inspired . . . research fellows to solve the consolidation problem of merged firms by quantitative techniques such as optimization and simulation." The evidence shows that companies in the United States and abroad have implemented the petitioner's research findings and models in their business operation

and have attested to the major significance of the petitioner's work in the field at a level consistent with national or international acclaim.

Moreover, the petitioner has submitted evidence showing that well-known and highly ranked journals in the field of information systems, including the and have published his scholarly articles. He is listed as the lead author in these published articles. The petitioner's references have noted that these journals are "highly rated" "highly respected," "prominent" and "premier" publications in the field. According to a document entitled "MIS [Management of Information Systems] Journal Rankings," is ranked No. 4 and is ranked No. 7 in the field. According to Dr. the petitioner "[t]hrough his work has earned himself a global reputation in the area of information systems" and his publications have been "cited and [had] significant impacts on the field." According to Dr. the petitioner is "a scholar of international repute in Operations and Information Management." The evidence also shows that other researches in the field have cited the petitioner's scholarly articles as the sole authority in areas relating to the effectiveness of using incentives to encourage participation in preference markets and the evaluation of early stage technologies through crowdsourcing and open innovation consistent with a finding of national or international acclaim.

Furthermore, not only does the evidence show that the petitioner meets the judging criterion because he has served as a reviewer for journals in the field of information systems, the evidence also shows that he has been invited to serve on an editorial board. For example, a letter from Editorial Manager of states that the petitioner has been invited to serve as an associate editor for the publication because of "[the petitioner's] research and its impact within in the community." The evidence shows that the petitioner has judged manuscripts for publication in the top publications in the field and has been invited to serve on an editorial board because of his impact in the field as a whole. The petitioner's judging experience is indicative of his national or international acclaim in the field and constitutes evidence showing that he has risen to the very top of his field.

The evidence in the record in the aggregate, including the petitioner's original contributions of major significance in the field, the impact of his work in the field, the publication and impact of his articles and his judging experience, establishes that he enjoys a level of expertise that is consistent with a finding that he is one of a small percentage who have risen to the very top of the field of endeavor, that he has sustained national or international acclaim and that his achievements have been recognized in the field of expertise. *See* Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Accordingly, the petitioner has established by a preponderance of the evidence that he is eligible for the exclusive classification sought.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of his or her field of endeavor.

The petitioner has submitted qualifying evidence under at least three of the ten evidentiary criteria and has established that he has a "level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor" and "sustained national or international acclaim." The petitioner's achievements have been recognized in his field of expertise. The petitioner has shown that he seeks to continue working in the same field in the United States. The petitioner has also established that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established his eligibility for the benefit sought under section 203 of the Act.

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 been met.

ORDER: The August 5, 2014 decision of the director is withdrawn. The appeal is sustained and the petition is approved.