



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

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

MATTER OF O-B-A-

DATE: JUNE 28, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a computer science researcher, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had shown that he only met two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional evidence and contends that he qualifies as an individual of extraordinary ability.

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

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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.

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.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification’s initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle 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.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

The Petitioner is a computer science researcher focusing on context-aware design and human-computer interaction. As he has not established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

### A. Evidentiary Criteria

The Director found that the Petitioner met the criteria for judging and scholarly articles under 8 C.F.R. § 204.5(h)(3)(iv) and (vi), respectively, but not for membership, published material, contributions of major significance, leading or critical role, or high salary under 8 C.F.R. § 204.5(h)(3)(ii), (iii), (v), (viii), and (ix). On appeal, the Petitioner maintains that he meets the criteria for contributions of major significance, leading or critical role, and high salary.<sup>1</sup> Here, we conclude that the Petitioner has established that he meets the criteria for judging, scholarly articles, and leading or critical role.

Specifically, the record reflects that the Petitioner has judged the work of others in having reviewed manuscripts for the *Interactive Journal of Medical Research*, the *Journal of Medical Internet Research*, and the *International Journal of Cooperative Information Systems*, among others. Next, for scholarly articles, the Petitioner has published articles meeting the requirements of this criterion in *IEEE Transactions on Information Technology in Biomedicine*, in *Intelligent Decision Technologies*, and in *Procedia Computer Science*. Finally, the record reflects that the Petitioner performed a critical role for [ ] an organization with a distinguished reputation, through his work in developing two

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<sup>1</sup> The Petitioner has not raised the membership or published material criteria on appeal under 8 C.F.R. § 204.5(h)(3)(ii) and (iii).

[redacted] systems that improved productivity and employee satisfaction within [redacted]. This demonstrates that the Petitioner meets three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3). Accordingly, we will evaluate the totality of the evidence in the context of the final merits determination below.

### B. Final Merits Determination

As the Petitioner has established that he meets the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2)-(3); *see also Kazarian*, 596 F.3d at 1119-20. Here, the Petitioner has shown his eligibility for this classification.

The record reflects that the Petitioner received his bachelor's degree in computer science from the University of [redacted] in 2000, his master's degree in distributed systems from the University of [redacted] in 2007, and his doctorate degree in computer science from the University of [redacted] in 2012. Following his doctorate degree, he was employed as a research staff member for [redacted] and he is currently a user experience researcher for [redacted]. As will be discussed further below, the record reflects that the Petitioner has organized, and presented at, numerous international conferences; he has performed leading and critical roles at [redacted] which further resulted in his recognition as a leader in the field both within and out of the company; and he has commanded a high salary in relation to others in his field. Each of these aspects, together with the evidence discussed further below, support a finding that the Petitioner is among the small percentage at the very top of his field of endeavor with sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2)-(3).

Regarding his service as a judge of others, the record reflects that he has served on the editorial board for the *Future Generation Computer Systems* journal, he has conducted peer-reviews for prestigious journals, and he has reviewed research funding proposals for the National Research Foundation of the [redacted]. As serving on an editorial board and performing these reviews are reflective of a high level of responsibility, we find the Petitioner's judging experience to be consistent with a determination that he is among the small percentage at the top of his field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

The record establishes the importance of the Petitioner's original contributions to [redacted]'s products including, among others, the [redacted] and the [redacted]. In his second letter in the record, [redacted] director of [redacted] for [redacted] states that "[t]he design of the architecture framework for the [redacted] was [the Petitioner's] responsibility, and the original work product . . . resulted in a patent filing with the U.S. Patent and Trademark Office, demonstrating its originality." The record also reflects that the Petitioner is the inventor of a patent [redacted] [redacted]" which [redacted] featured in 2014 at its international conference. While we note that the record does not establish to what extent the Petitioner's role in

these patent filings brought acclaim to himself individually, we find that this evidence demonstrates that he is performing at a high level in his field which, with the evidence discussed below, demonstrates that he has risen to the very top of his field.

The Petitioner's contributions are indicative of his acclaim, as the record demonstrates that he has delivered keynote speeches, given presentations, organized workshops, and co-chaired internationally recognized conferences. [REDACTED], the principal lecturer in applied artificial intelligence at [REDACTED] University, states that "[the Petitioner's] research has been presented at international and national conferences in more than ten countries" and that most of these are "premium conferences sponsored by [REDACTED] or [REDACTED]—two of the most prestigious bodies in computer science world-wide." For example, the record reflects that he gave a keynote address at the 2013 International Conference [REDACTED] [REDACTED] in the UAE. He also presented at the 2014 [REDACTED] [REDACTED] in Florida. The record also reflects that he organized workshops at conferences in Maryland and in [REDACTED] Norway and that he co-chaired influential international forums, including the 2014 International Conference on [REDACTED] [REDACTED] in Minnesota. Accordingly, we find that the recognition the Petitioner received, for both organizing and presenting at these conferences, together with other evidence in the record, demonstrate that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

While the publication of a petitioner's written work does not automatically place one at the top of the field, we note that the Petitioner has published a considerable number of scholarly articles, many of which were presented at the international conferences discussed above. [REDACTED] principal research staff member at [REDACTED] and an adjunct professor at [REDACTED] University in Denmark, states that "[the Petitioner's] research in the areas of [REDACTED] and its relation to [REDACTED] have been favorably reviewed and sought after by others working in complementary research domains." Similarly, [REDACTED] a professor at the [REDACTED] University in Dubai, indicates that "[the Petitioner] is very well published" and that his articles "have been published in the last eight years in top-notch conferences and scholarly peer-reviewed journals with international circulation . . ." He states that "[the Petitioner's] research is both practical and insightful in that it considers real world social and business models as they interact with the world for the design of technological solutions and context aware designs." Accordingly, the record reflects that the Petitioner's scholarly articles have received praise from other researchers and have been featured in prominent publications or conferences, which together demonstrate that his achievements have been recognized in the field.<sup>2</sup>

With respect to the evidence of the Petitioner's leading or critical roles, the record reflects that his roles within [REDACTED] have contributed to his recognition both within the company, demonstrating that he has risen to the top of the field, and outside the company, establishing his acclaim and recognition in the field. The record establishes that the Petitioner developed two [REDACTED] systems at [REDACTED], one of which is the [REDACTED] system, in which employees could contribute

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<sup>2</sup> 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* 13 (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

to areas at [redacted] beyond the scope of their job duties, where projects are posted through social platforms. [redacted] the principal scientist and senior manager at the [redacted] Research Center in [redacted] and a former scientist and manager at [redacted] describes the Petitioner's role in the [redacted] developments. She states that he introduced the concept and led the technical development of [redacted] which "allows organizations to get optimal return on the investments they make in training their employees to acquire new skills . . . ." The record contains documentation related to the pilot study of the [redacted] process, identifying [redacted] and the Petitioner in leading roles for the program. In addition, the record contains letters from [redacted] the dean of the College of Information and Computer Sciences at the University of [redacted] an [redacted] Fellow, and former director in the [redacted], in which she explains the Petitioner's role in developing these [redacted] systems. She states that "[the Petitioner's] solution led to significant increases in employee satisfaction, higher productivity and increased flexibility for employees, and a double digit increase in return on employee training investment." The Petitioner's development of the [redacted] system and its results within the company are indicative that the Petitioner has risen to the very top of the field.

While the Petitioner's work on the [redacted] system demonstrates his recognition and expertise within [redacted] the record reflects that his other roles within the company also contributed to his recognition in the field. [redacted] states that the Petitioner served as "the coordinator of the [redacted] [redacted], a bi-monthly [redacted] Distinguished Seminar Series that brings together [redacted] and renowned researchers and thought leaders in academia, industry, and government to discuss and share expertise in the most important aspects of analytics and big data." She goes on to claim that the Petitioner and his colleagues "hosted over twenty guest speakers from notable institutions including Stanford University, Lawrence Livermore National Research Lab, Google, LinkedIn, e-Bay, and [the] University of California, Berkeley, just to name a few." She adds that "[t]his event is live streamed to all of [redacted] labs on six continents," concluding that he helped "advance the [redacted] [redacted] into a leading seminar series in [redacted] and a notable platform for fostering collaboration with universities and other industrial research and IT organizations as well as for generating and sharing ideas in and around big data analytics." Accordingly, the Petitioner's work on the [redacted] including the connections he made with leaders outside of [redacted] in furthering that endeavor, and the forum's reach to universities and other organizations is an indication that his achievements have been recognized in the field.<sup>3</sup>

When the evidence is considered in the aggregate, the Petitioner has demonstrated that he has sustained national or international acclaim and that his achievements have been recognized in the field to show that he is "one of that small percentage who [has] risen to the very top of the field of endeavor" under 8 C.F.R. § 204.5(h)(2)-(3).<sup>4</sup>

### III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that

<sup>3</sup> USCIS Policy Memorandum PM-602-0005.1, *supra*, at 13.

<sup>4</sup> *Id.*

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his achievements have been recognized through extensive documentation. He therefore qualifies for classification as an individual of extraordinary ability.

In visa petition 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; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has been met.

**ORDER:** The appeal is sustained.

Cite as *Matter of O-B-A-*, ID# 2795048 (AAO June 28, 2019)