



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

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

In Re: 12186425

Date: DEC. 31, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a director of program management for a biomedical science company, 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 concluded that, although the record established that the Petitioner satisfied the initial evidentiary requirements for this classification, he did not establish, as required, that he has sustained national or international acclaim and is among that small percentage who have risen to the very top of his field. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, the Petitioner has not met that burden. Accordingly, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens 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 a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles).

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).

## II. ANALYSIS

The record reflects that the Petitioner is employed as a Director, Program Management for [REDACTED] [REDACTED], a multinational biosciences company, where he is responsible for leading the development of the company’s next generation [REDACTED] instrumentation.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner initially claimed to have met six criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles;
- (viii), Leading or critical roles for organizations with a distinguished reputation; and
- (ix), High salary or other significantly high remuneration in relation to others.

The Director concluded that the Petitioner met three of the criteria by providing evidence that he has judged the work of others, authored scholarly articles in professional publications, and performed in a leading or critical role for an organization that enjoys a distinguished reputation. The record supports these determinations based on evidence that the Petitioner has published his research in journals and conference proceedings and peer reviewed manuscripts for *Journal of Orthopaedics* and *The International Journal of Health, Wellness and Society*, thus satisfying the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). The record also demonstrates that the Petitioner has held leading or critical

roles with his current employer [redacted] and includes evidence of this company's distinguished reputation in its industry. *See* 8 C.F.R. § 204.5(h)(3)(viii).

On appeal, the Petitioner contests the Director's determination that he did not satisfy the criteria related to original contributions of major significance and high salary or other remuneration. Because the Petitioner has demonstrated that he satisfies three criteria, we will evaluate the totality of the evidence, including evidence submitted in support of those two criteria, in the context of the final merits determination below.

## B. Final Merits Determination

As the Petitioner has submitted 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.<sup>1</sup>

The Petitioner holds a bachelor of engineering in biotechnology from [redacted] University and received his master of science in bioengineering from University [redacted] where he served as a graduate research assistant in the [redacted] from 2006 to 2008. The record reflects that the Petitioner has more than 11 years of progressive experience in product development in the biomedical field. Prior to joining [redacted] in December 2015, the Petitioner worked as a product engineer for [redacted], as a senior development engineer for [redacted] and as a project manager for [redacted].

As mentioned above, the Petitioner judged others within his field, authored scholarly articles, and performed in a leading role. We have also considered evidence related to an award he received for his work at [redacted] his contributions to the field, and his salary and remuneration package with [redacted]. The record, however, does not demonstrate that his achievements reflect a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

Relating to the Petitioner's service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22.<sup>2</sup> The record reflects that, at the time of filing, the Petitioner had reviewed 18 scholarly articles submitted to *Journal*

---

<sup>1</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 4* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (stating that USCIS officers should evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise for the immigrant classification).

<sup>2</sup> *Id.* at 13 (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

of *Orthopaedics* and *The International Journal of Health, Wellness and Society*. Participating as a peer reviewer does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim. In evaluating this evidence in the final merits determination, the Director acknowledged that the Petitioner had reviewed 18 manuscripts for these two journals in [redacted] and [redacted] 2019.<sup>3</sup> The Director determined that because invitations to peer review the work of others can be routine in the Petitioner's field, this evidence alone did not demonstrate that he is at the top of the field or otherwise establish his sustained national or international acclaim. Specifically, the Director noted a lack of evidence that would set the Petitioner apart from others in the field, such as evidence that he had reviewed "an unusually large number of articles, received independent requests for a substantial number of journals, or served in an editorial position for a distinguished journal." On appeal the Petitioner asserts that the Director did not cite any authority for these factors and notes that they appear to have been applied arbitrarily.

While the Director provided examples of judging experience that may be indicative of an individual's national or international acclaim, the decision does not indicate that he arbitrarily imposed novel requirements. Rather, the Director's observation highlights the fact that not all peer review activities are equally indicative of an individual's standing in the field. The Petitioner emphasizes that his completion of 18 reviews in a period of less than [redacted] is a substantial volume, but we cannot determine to what extent this level of activity is indicative of his national or international acclaim or how his experience compares to the peer review activities of individuals at the top of the field. It is undisputed that these two journals have frequently invited him to review articles since [redacted] 2019; the record does not reflect, however, that he has a consistent history of participating as a peer reviewer that would indicate sustained acclaim.

The Petitioner further asserts that the Director failed to weigh evidence related to the reputation of the journals and their standards for identifying reviewers. With respect to the *Journal of Orthopaedics*, the Petitioner asserts that it is "the leading journal of orthopedics and enjoys an international readership." The Petitioner provided limited information about this journal from its publisher's website indicating that it is "[a]n official publication of the Prof. PK Surendran Memorial Educational Foundation and Indo Korean Orthopaedic Foundation" which "aims to be a leading journal in orthopaedics." The evidence does not support the Petitioner's claim that *Journal of Orthopaedics*, which indicates a CiteScore (average citation per article) of 1.16, is the "leading journal" in this field.

We acknowledge that the Petitioner submitted a letter from the *Journal of Orthopaedics*' chief editor, who states that the journal requires its peer reviewers to be "experts with renowned international reputation in their own fields" who are "aware of the most updated technological and theoretical developments." The correspondence the Petitioner received from this journal's editor indicate that he was invited to review specific articles because they "fall within [his] expertise and interest" and requested that he suggest alternate reviewers for articles that he declines. This evidence suggests that the journal selects peer reviewers based on interest and subject matter expertise, a considerably lower threshold than sustained national or international acclaim or the "renowned international reputation" referenced in the editor's letter, a term which the editor did not define.

---

<sup>3</sup> On appeal, the Petitioner asserts that the Director erred by stating that all his journal-related peer review activities took place between [redacted] 2019 and [redacted] 2019. The record reflects that his earliest review was completed on [redacted] 2019, and that he continued to review articles for the two referenced journals subsequent to the filing of the petition on December 5, 2019.

Regarding the Petitioner's peer review activities for *The International Journal of Health, Wellness and Society*, he submitted information from the publisher's website, which, on the subject of peer review, states that the publisher relies on a reciprocity system whereby any author who submits an article for publication will be assigned three manuscripts to review for their peers, based on subject matter and disciplinary expertise. The evidence does not establish this journal's rankings or reputation in the field, nor does it demonstrate that the publisher invites only those reviewers who have achieved national or international acclaim. Overall, while we acknowledge the significant volume of recent requests the Petitioner has received to review manuscripts for two journals, the evidence does not establish that the scope of these peer review activities reflects or resulted in his sustained acclaim, or that the nature of the peer review work he is performing is reserved for the small percentage at the very top of the field.

The Petitioner further contends that the Director overlooked and did not weigh evidence demonstrating that he had judged the work of others while serving on a due diligence team leading up to [redacted]'s acquisition of [redacted] in 2016. [redacted]'s Vice President of Research and Development [redacted] confirms that he personally invited the Petitioner to represent the program management function on the team, based on his accomplishments and subject matter expertise. He notes that "only the top talent within [redacted] was selected for this process." We agree with [redacted]'s statement that this was "a critical assignment at [redacted]," and acknowledge that this evidence supports our determination that the Petitioner has held leading or critical roles for his current employer. However, the record does not establish that his participation on the due diligence team resulted in or reflects his sustained international acclaim in the field, was recognized outside of [redacted]'s organization, or places him among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

Likewise, publication of a petitioner's research does not automatically place one at the top of the field. Here, the Director acknowledged that the Petitioner established that he published a total of nine articles and conference papers in peer-reviewed scientific journals but emphasized that the Petitioner did not submit a citation history for his published work. As authoring scholarly articles is often inherent to the work of scientists and researchers, the citation history or other evidence of the influence of one's articles can be an indicator to determine the impact and recognition that their work has had on the field and whether such influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that his work has been recognized and that other researchers have been influenced by his work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122.

On appeal, the Petitioner asserts that the Director improperly relied solely on the Petitioner's citation count in evaluating whether his original contributions are of major significance in the field. However, the Director noted the absence of the Petitioner's citation history in evaluating evidence related to his published scholarly articles and whether his publication record is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). A review of the decision reflects that the Director's evaluation of the Petitioner's original contributions, which we will discuss below, included the Petitioner's published research, search results from *Google Scholar* demonstrating that researchers have referenced products he developed with [redacted] and other employers, and letters of recommendation.

In support of the appeal, the Petitioner submits a screenshot from *Google Scholar* reflecting that his 2008 article [redacted]

[redacted] had been cited by others 14 times as of April 2020. The Petitioner has not demonstrated that this rate of citation for one article demonstrates attention from his field at a level consistent with being among small percentage at the very top of that field. *See* 8 C.F.R. § 204.5(h)(2). However, we acknowledge that all but one of the Petitioner's scholarly articles were published more than 10 years prior to the filing of the petition, and he does not rely heavily on these publications to support his extraordinary ability claim. As discussed further below, the Petitioner has not been employed in academic or research roles, but rather asserts that he has built his reputation in the field through product development positions in the biomedical engineering industry.

As it relates to the Petitioner's service in a leading role, the record contains numerous letters of recommendation discussing his product development work for [redacted] and his prior employers. These letters demonstrate the Petitioner's expertise in medical technology innovation and his work for companies that enjoy a distinguished reputation in his field. While the Director acknowledged evidence demonstrating his leading or critical role with [redacted] he found that the record lacked evidence that such role is indicative of, or resulted in, his sustained national or international acclaim.

The letters discussing the Petitioner's roles at [redacted] describe the company's reputation and activities, his areas of responsibility, and the importance of the products developed or under development, but as noted by the Director, do not focus on any acclaim or recognition he has received outside of the company as a result of his critical roles. [redacted] Vice President and General Manager of [redacted] for [redacted] states that the Petitioner was initially "chosen to lead a cross-functional team of 45 researchers and other staff with the mission to direct the timely development of our [redacted] product," "drove its successful commercialization" and reduced the product development lifecycle by 25%. As discussed further below, the record also demonstrates that he received a significant company award for his contributions to this product, which further supports the critical nature of his role.

[redacted] explains that, as a result of his success with the [redacted] product, the Petitioner was promoted to Director, Program Management for [redacted]'s \$125 million [redacted] program, which requires him to direct a team of 86 managers and engineers to lead the company's next-generation [redacted] instrumentation, expected to be fully launched in 2022. [redacted] states that the Petitioner "falls within the top 1% of all employees at [redacted]" based on his position and responsibilities in the organization, noting that he is one of the youngest scientists to hold a "Director" title.

Finally, as noted above, the Petitioner's appointment to a due diligence team in preparation for the acquisition of another biomedical company provides further evidence of his critical role within [redacted]. The Petitioner's value to the company has been demonstrably evidenced by the letters from [redacted]. However, the record does not establish how his contributions and achievements within the company have been recognized in the industry at large or indicate that he has received individual acclaim for them. We cannot determine that his employer's opinion that he is one of the top employees in the company places him among "that small percentage who [has] risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2). Nor does the evidence establish that his work at [redacted] to date has resulted in the Petitioner becoming an acclaimed figure in his field.

With regard to his previous employment with other companies in the biomedical devices industry, the record shows that the Petitioner has consistently developed his skills in product development and commercialization and steadily progressed to increasing levels of responsibility during his career. [redacted] a senior director of research and development at [redacted] states that he managed the Petitioner's work from 2013 to 2015 when he served as a senior project manager responsible for development, managing and launching [redacted]'s first [redacted] product portfolio. He refers to the Petitioner's "critical leadership role" in overseeing the introduction of the company's [redacted] system and notes that this product is still used by [redacted] surgeons, but does not indicate how the Petitioner's project manager position with [redacted] garnered him acclaim outside the company.

The Petitioner also provided a letter from [redacted], Vice President Engineering at [redacted] [redacted] who previously directed the Petitioner during his tenure as a senior development engineer at [redacted] from 2012 to 2013. He discusses the Petitioner's work with [redacted] product, which is used to close varicose veins using [redacted], noting that the Petitioner introduced "critical design improvements" that distinguished [redacted]'s product from those of its competitors, and emphasizing that the device is still widely used in the medical industry, even after [redacted]'s acquisition by another company. Finally, a letter from [redacted], who managed the Petitioner's work at [redacted] discusses the Petitioner's work as a product engineer with [redacted] between 2008 and 2012. [redacted] specifically discusses his contributions to the design and development of the [redacted] System and [redacted] System, noting that both of these products are still offered by [redacted]. Neither [redacted] nor [redacted] however, addresses how the Petitioner's engineering positions with [redacted] and [redacted] were leading or critical to these organizations as a whole, nor did they provide details of how the Petitioner achieved national or international acclaim based on his product contributions.

Apart from the letters from the Petitioner's current and prior managers, the record lacks other independent evidence, such as news articles or other relevant materials, demonstrating that the biomedical device field has widely recognized the Petitioner's roles or contributions to his employers in a manner that evidences a "career of acclaimed work." The Petitioner's talents and his successes to date have garnered him employment opportunities with major players in the industry and increasing leadership responsibilities as evidenced by his current role with [redacted]. However, the evidence does not show that his roles and achievements at these companies are at a level that places him among "that small percentage who have risen to the very top of the field of endeavor." See 8 C.F.R. § 204.5(h)(2).

Beyond the three criteria that the Petitioner has satisfied, we have considered additional documentation in the record in order to determine whether the totality of the evidence demonstrates eligibility. With respect to his receipt of awards, the record reflects that [redacted] recognized the Petitioner by awarding him the company's [redacted] Award in 2017, the "highest distinction and honor" in recognition for his leadership of the development its [redacted] product. While the evidence demonstrates that the award is a significant honor within the company, given to only a small number of awardees out of 60,000 employees worldwide, it does not reflect that it is a national or internationally recognized award in the field as a whole, or that the Petitioner garnered recognition for this award that extended beyond his employer. While recognition of this nature within a large multinational corporation is certainly a significant achievement, the record has not shown the Petitioner's receipt of the award established or contributed to his sustained national or international acclaim in the field.

As it relates to his original contributions, the Petitioner has placed particular emphasis on his product development activities, emphasizing that surgical devices and other biomedical products he developed for his employers over the course of his career are in widespread use and have been of major significance in the medical and research fields. On appeal, he specifically references the following devices: [redacted] implant products [redacted] Screw System and [redacted] System) developed at [redacted]; the [redacted] peripheral vascular catheter product developed at [redacted]; and two [redacted] implant systems - [redacted] (sold by [redacted]) and [redacted] (sold by [redacted]). The Petitioner emphasized that these devices are in widespread use and have been frequently mentioned in published studies, with “thousands of citations by many different researchers around the globe.”

With respect to the products developed during his tenure as a product engineer at [redacted], [redacted]’s letter states that the Petitioner “designed and developed” the [redacted] System, which he describes as “a minimally invasive [redacted] alternative to [redacted] screws.” [redacted] states that “the [redacted] design concept and finished product were entirely the result of [the Petitioner’s] own research and development.” The record includes a [redacted] Screw System “Surgical Technique Guide” published by [redacted] in 2010 but does not contain any additional evidence related to this product or the Petitioner’s role in its development. As a result, we are unable to determine whether the device was regarded as novel or original at the time of its introduction, whether or how it impacted the field of biomedical technology, or whether and to what extent the Petitioner garnered acclaim or recognition as a result of his work on its development.

[redacted] also briefly mentions [redacted] systems as a product in which the Petitioner “was directly and heavily involved” while employed at [redacted] and notes that this product, “which provides robust [redacted] in the [redacted]” continues to be offered by [redacted] following its acquisition of [redacted]. The Petitioner emphasizes in his brief that the [redacted] system is “one of the top biomedical device products sold by [redacted]” and “used by thousands of hospitals” to treat [redacted] deformities. The record contains evidence demonstrating that [redacted] still markets this product and has presented clinical data on its performance at industry conferences, evidence that other independent researchers have studied the product’s clinical performance, and evidence that the product has received a 2015 [redacted] Award.

However, [redacted]’s letter lacks probative details describing the Petitioner’s specific role in the development of the product. For example, it is unclear if [redacted] or any of its components are patented, and if so, whether the Petitioner is listed as an inventor. The Petitioner’s detailed curriculum vitae mentions only that he was “[r]esponsible for 6 cadaveric studies for [redacted],” a [redacted] device at various research labs,” with duties that included “developing the protocol, conducting testing and writing abstracts.” Even if we could determine based on the submitted evidence that he was significantly involved in the development of [redacted] system, the record lacks evidence that the Petitioner received any recognition in the field as a result of his contributions to the product. The nature of a product engineer’s duties is to contribute to the development or improvement of new or existing products. We cannot determine that any engineer who works on successful products that achieve widespread use is automatically among the small percentage at the very top of the field. In



order to establish eligibility as an individual of extraordinary ability, the Petitioner must also provide evidence that his product development work resulted in his sustained national or international acclaim.

We have also considered evidence related to the Petitioner's work on the [redacted] product while employed by [redacted]. Submitted product details indicate that [redacted] is a varicose vein therapy that [redacted]

[redacted] The evidence does not establish that the Petitioner assigned any patents to [redacted] or that he was involved in the initial development of the product, which pre-dates his employment with the company.<sup>4</sup> [redacted], his manager at [redacted] indicates that the Petitioner "was responsible for refining [redacted]'s breakthrough [redacted] product," by introducing design improvements to its [redacted] carrying out studies to optimize [redacted] delivery, developing technical drawings for new components, establishing methodologies for improvements, and creating manufacturing processes for some of its components and subassemblies.

The appellate brief emphasizes that the [redacted] device "has been used by over two million patients worldwide in over 100 countries" and states that "[t]he significance of the Petitioner's impact with this contribution can also be measured by the fact there are already 250+ published clinical studies that showcase its widespread use and application." The record includes search results for [redacted] from *Google Scholar* as evidence that researchers continue to study the efficacy of [redacted] and other [redacted] treatments. The widespread use of the product is evident; however, the record lacks evidence that the product refinements to which the Petitioner contributed during his time at [redacted] garnered him recognition or acclaim in the field.

The remaining biomedical devices referenced in the Petitioner's appellate brief are the [redacted] [redacted] system currently sold by [redacted] and the [redacted] [redacted] System, described as "one of the top products sold by [redacted]" [redacted] co-director of [redacted] at University [redacted] indicates that he was the Petitioner's master's thesis advisor and supervised his work as a graduate research assistant. He explains that the Petitioner "undertook critical industry studies to further the development of major medical device products for world-class companies," and that two of the products included in his studies were [redacted] and [redacted]. [redacted] further states that the Petitioner performed "critical work to further the successful development" of these products by performing scientific studies such as in vitro biomechanical evaluations and finite element analysis. The record supports a determination that these products achieved widespread use but does not sufficiently explain or document that either product is attributable to the Petitioner as a result of the studies he performed as a graduate student and researcher at [redacted]. Nor does the record establish that he garnered acclaim in the field based on these activities. It appears that the Petitioner's 2008 article mentioned above relates to the research studies discussed by [redacted] but as noted, it has been cited only 14 times as of 2020 and has not generated widespread commentary in the field.

We have also considered evidence related to the Petitioner's contributions to the [redacted] and [redacted] products at [redacted]. With respect to [redacted], the evidence demonstrates that the Petitioner was hired as a senior program manager to supervise a team of 45 people and to

---

<sup>4</sup> A [redacted] publication submitted in support of the petition cites to a 2009 study of the product's clinical performance. The Petitioner joined [redacted] in 2012.

“drive the timely development and successful commercialization of the product” which, according to a letter from [redacted] has resulted in \$50 million in annual revenues. The record demonstrates that [redacted] has over 750 placements in commercial, research and university laboratories worldwide and a printout from *Google Scholar* indicates that scientists are using [redacted] as a tool in their research. The record also reflects that the Petitioner received recognition within the company for his work, including a promotion to his current Director, Program Management position, an invitation to a due diligence team related to [redacted]’s acquisition of [redacted] and receipt of a [redacted] Award in 2017. However, the record contains little evidence that the Petitioner has garnered recognition outside of the company as a result of his contributions to [redacted]

A letter from [redacted] Head of [redacted] at [redacted] Laboratory [redacted] indicates that he has collaborated directly with the Petitioner due to [redacted]’s role in carrying out early testing of [redacted]’s [redacted] products. He describes [redacted] as “novel technology” and explains that the machine’s capabilities have increased the pace of research at [redacted] and provided data that is key to its published papers. [redacted] also discusses [redacted]’s role in the beta phase of [redacted]’s development, noting that [redacted] has abilities that are “absolutely unique with no competition worldwide.” He states that [redacted] is already carrying out productive scientific research utilizing [redacted], although it is not expected to be launched to the general public until 2022. He states that he considers both of these [redacted] products to be original contributions of major significance and that he regards the Petitioner as a “gifted scientist on a global scale.”

However, all of the letters submitted in support of the petition are from individuals who directly worked with the Petitioner either as his manager or his collaborator; there is insufficient evidence that the Petitioner has achieved sustained national or international acclaim in the field as a result of his contributions to his employers’ products. The letters do not provide sufficient information and explanation, nor does the record include sufficient corroborating evidence, to show that the Petitioner is regarded as being among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

The Petitioner also claims that his “extraordinary ability is reflected in his annual compensation package,” which includes his base salary of \$188,379, incentive bonuses and stock options. The record reflects that he received total compensation of \$258,570 in 2018 and \$288,457 in 2019. The Petitioner provided data from the Department of Labor’s Foreign Labor Certification (FLC) Data Center indicating that base salaries for his occupation and geographic area [redacted] (California) are \$188,510 at Level 3 and \$219,752 at the Level 4 or “fully competent” level. The Director acknowledged that his base salary is competitive but found insufficient evidence to establish that he earns a high salary or other significantly high remuneration in relation to others. While the Petitioner argues that his total compensation is considerably higher than the figure reported by the FLC resource, we note that the Petitioner did not provide supporting evidence that would allow a comparison between his total remuneration and that of other similarly employed workers in his geographic area. Therefore, the evidence does not establish that he receives total remuneration that is “significantly high” or that his earnings are comparable to those of individuals at the very top of the field.

The record as a whole, including the evidence discussed above, does not establish the Petitioner’s eligibility for the benefit sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the

top. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of “extraordinary ability.” *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

### III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. 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.