



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

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

In Re: 17323258

Date: JUN. 08, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, the chairman and general manager of an [ ] 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 of the Nebraska Service Center denied the petition concluding that the record did not establish, as required, that the Petitioner meets at least three of the ten initial evidentiary criteria for this classification. The Director further determined that the Petitioner did not demonstrate that he seeks to enter the United States to continue work in his area of extraordinary ability. The matter is now before us on appeal.

In these proceedings, the petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, the Petitioner has not met this burden. Accordingly, we will dismiss 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 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 the chairman and general manager of [redacted], a [redacted] company located in [redacted] China, which he founded in 1998.

### 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 claims that he meets six of these ten criteria, summarized below:

- (i), Lesser nationally or internationally recognized awards or prizes;
- (ii), Memberships in associations that require outstanding achievements;
- (iii), Published materials in professional, major trade publications or other major media;
- (v), Original contributions of major significance;
- (viii), Leading or critical roles with organizations that have a distinguished reputation; and
- (ix), High salary or other significantly high remuneration in relation to others.

The Director determined that the Petitioner did not meet any of the claimed criteria. On appeal, the Petitioner asserts that he meets all six criteria and contends that the Director improperly rejected, disregarded, or overlooked evidence that establishes his eligibility for the requested classification.

After reviewing all the evidence in the record, we conclude that the Petitioner has established that he meets the criterion relating to leading and critical roles at 8 C.F.R. § 204.5(h)(3)(viii). He has

established that he holds the senior leadership role with [redacted] and submitted sufficient supporting documentation to establish the company's distinguished reputation in its industry. However, for the reasons discussed below, the Petitioner has not established that he meets at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and therefore, he has not satisfied the initial evidence requirements for this classification.

*Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i)

In order to fulfill this criterion, the Petitioner must demonstrate that he, rather than his employer, is the recipient of prizes or awards that are nationally or internationally recognized for excellence in the field of endeavor.<sup>1</sup> Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.<sup>2</sup>

The Director determined that the Petitioner did not establish that the awards documented in the record are nationally or internationally recognized awards or prizes in the field. The Director further observed that some of the awards appeared to provide government grant funding for future research and development efforts rather than awarding excellence in the field. On appeal, the Petitioner maintains that the evidence he submitted in response to the Director's request for evidence (RFE) included detailed descriptions of the awards and the processes for granting them, and was sufficient to establish that all elements of the criterion were satisfied.

As a preliminary matter, we note that almost all the evidence submitted under this criterion identifies [redacted] rather than the Petitioner, as the named recipient of the awards or prizes. Even if we determined that such awards were nationally or internationally recognized awards or prizes for excellence in the field, only awards received by the Petitioner satisfy the plain language of 8 C.F.R. § 204.5(h)(3)(i). Nevertheless, we will briefly discuss evidence related to the awards received by the Petitioner's employer.

Many of the documented awards and prizes in the record were granted by the Management Committee of the [redacted] High Tech Industrial Development Zone. These awards included monetary incentives or subsidy components that the Director characterized as "research grants." The record contains a letter from the office manager for the development zone, which specifically discusses the [redacted] Award" and states that [redacted] has been "the only enterprise in [redacted] industry to win this award." He explains that the award is intended to "recognize and award a group of emerging enterprises from the Development Zone . . . that have made outstanding contributions to the regional economic development." The letter goes on to describe the factors considered in granting this award to an enterprise but it does not indicate that the Petitioner himself was the recipient of this or other awards bestowed on [redacted] by the

<sup>1</sup> See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (providing guidance on the review of evidence submitted to satisfy the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)).

<sup>2</sup> *Id.*

[redacted] High Tech Industrial Development Zone. A second letter from the same official discusses [redacted]'s title of "High Tech Enterprise" and its receipt of [redacted] awards in both 2015 and 2018, but again does not identify the Petitioner as a recipient of these awards.

Further, we agree with the Director's determination that the evidence did not sufficiently demonstrate that these awards are nationally or internationally recognized awards for excellence, as eligibility appears to be limited to companies operating in the [redacted] High Tech Industrial Development Zone. This evidence establishes that [redacted] has consistently received recognition from the municipal or regional government for its research and development efforts, innovation and growth in the years leading up to the filing of the petition. However, it does not demonstrate that the various incentive awards and titles granted by [redacted] High Tech Industrial Development Zone to [redacted] were nationally or internationally recognized awards or prizes for excellence or that they were received by the Petitioner.

The Petitioner also claimed receipt of a [redacted] First Prize award and a [redacted] Second Prize award in 2015 and 2019, respectively. With respect to the 2015 prize, the submitted award certificate identifies [redacted] as "winner" of this prize for the project [redacted] [redacted] A separate list of 2015's winners acknowledges two companies and 15 individuals associated with the project referenced above but does not identify the Petitioner or [redacted] among those named contributors. Similarly, information regarding the 2019 second prize project identifies [redacted] and several other individuals as main contributors but does not name the Petitioner or his company among the acknowledged winners. While testimonial evidence indicates that the Petitioner's company contributed to these two award-winning projects, the evidence does not support a determination that he or the company received the resulting awards.

The Petitioner provided evidence that [redacted] was awarded a certificate as a [redacted] [redacted] Well-known Brand Product" by the China Industrial [redacted] Association in 2020, but this certificate was not accompanied by evidence regarding the award or the national or international recognition associated with it, or evidence that the Petitioner himself was a recognized recipient of the award.

Finally, the Petitioner submitted evidence related to awards received by [redacted] that were sponsored or awarded by *Henan Daily* newspaper. These awards included: (1) [redacted] [redacted] (2015); and (2) [redacted] [redacted] (2016 and 2017), awarded jointly by [redacted] Daily and [redacted] [redacted] In addition, in 2018, the Petitioner was named as a [redacted] [redacted] by *Henan Daily*. A letter from *Henan Daily* journalist [redacted] briefly describes the selection processes for these awards. [redacted] states that each winning company and individual is "a leader in the industry" and that the awards are "granted in line with various regulations of the provincial government, representing the recognition of the provincial government to some extent, while also expressing the public opinion of the readers."

On appeal, the Petitioner maintains that the Director improperly disregarded these awards because they were bestowed by a “local publication,” notwithstanding [redacted]’s statement that the [redacted] *Daily* is “the most prestigious and influential newspaper in [redacted] province.” However, as noted above, [redacted] explained that consideration for such awards was limited to those companies doing business in that province (and their leaders) and represent “recognition of the provincial government.” Therefore, although the Petitioner established that he was a recipient of the [redacted] [redacted] award in 2018, the evidence submitted does not establish that this honor qualifies as a nationally or internationally recognized award or prize for excellence in his field.

For the reasons discussed above, the Petitioner did not establish that he meets this criterion.

*Documentation of the individual’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*  
8 C.F.R. § 204.5(h)(3)(ii)

To satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.<sup>3</sup>

The Petitioner initially claimed that he satisfied this criterion because he is the president of the [redacted] Association, the executive vice president of the [redacted] Association, and “the Supervisor for The Political and Professional Style” for the [redacted] Municipal Bureau of Quality and Technical Supervision. With respect to the [redacted] Association, the Petitioner provided a certificate which names [redacted] as “Executive Vice President Unit” for this organization, but it does not mention the Petitioner’s name. The Petitioner also submitted evidence intended to demonstrate that he is a member and director of the China [redacted] Industry Association and a member of the China General Machinery Industry Association, [redacted] Equipment Branch, but the certificates provided reflect that [redacted] [redacted] rather than the Petitioner, is a member of these associations.

In the RFE, the Director advised the Petitioner that he did not provide evidence that any of these associations require outstanding achievements of their members as judged by recognized national or international experts in the field and advised that evidence such as the associations’ bylaws or constitutions could be submitted to document the associations’ membership requirements and membership approval procedures.

The Petitioner submitted additional evidence in response to the RFE, including a certification letter from the China [redacted] Industry Association. This document confirms that [redacted] [redacted] has been a member of the association since April 2020, states that “every member company” is “a leader in the industry,” and indicates that the Petitioner “has been elected by the member companies and appointed as the Director of the Association and Deputy Director of the [redacted]

<sup>3</sup> See 6 USCIS Policy Manual, *supra*, at F.2 appendix (providing an example of a dmission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual’s distinguished achievements in original research).

Professional Committee,” based on the success of the company he leads and “outstanding achievements in the field of [REDACTED],”

This evidence does not establish, however, that the China [REDACTED] Industry Association admits individual members and that outstanding achievements, as judged by recognized national or international experts, in the field are an essential condition for such membership. The certification from the association is not sufficiently detailed in explaining the association’s general membership requirements, or the selection requirements and processes for director and committee leadership positions. As noted, the evidence indicates that this association admits “member companies” rather than individual members. The record also contains additional background information regarding this association which mentions its “500 member companies” but does not indicate that it admits individual members or provide further insight into the requirements that apply to company membership or elected positions. There is insufficient evidence to establish that the Petitioner’s elected “director” and “deputy director” roles require outstanding achievements as judged by recognized national or international experts in this field.

The Petitioner’s RFE response included similar evidence related to the China General Machinery Industry Association, [REDACTED] Equipment Branch. He provided a “Certification” from the association’s secretary general indicating that [REDACTED] had been a “member company” since March 2020, and stating that the Petitioner “serves as the [REDACTED] of this Association” based on his election by “the member companies.” The certification briefly discusses [REDACTED]’s reputation in the industry and the Petitioner’s leadership of that company, but does not indicate that this association admits individual members based on their outstanding achievements as judged by recognized national or international experts in this field. Additional introductory information regarding the China General Machinery Industry Association describes its scope (2000 member companies) and various branches but does not provide further insight into its membership requirements and conditions, nor does it establish that admission for membership is judged by recognized national or international experts.

The Petitioner provided similar certifications from the [REDACTED] Association and the [REDACTED] Association. The certification from the [REDACTED] Association president indicates that [REDACTED] is “the [REDACTED] of the association, and that the Petitioner, as chairman of the company, has been appointed as “the [REDACTED] of the association’s council and elected as director of a committee by the association’s member companies. The letter mentions his contributions and reputation in the industry, but does not discuss the association’s requirements or review processes and procedures for company membership, does not mention whether the association admits individual members, and does not address the established criteria and processes used to appoint or elect individuals to leadership positions. As such the Petitioner has not provided the information needed to establish that he has a qualifying membership in the [REDACTED] Association. The certification letter from the [REDACTED] Association states that the Petitioner was elected by the 60 member companies of the organization to serve as “[REDACTED] in 2019, but does not offer any additional information regarding the association, its membership requirements for individuals (if applicable), and its requirements pertaining to elected officers, nor does it provide information as to whether outstanding achievements as judged by nationally or internationally recognized experts are an essential condition for membership or elected positions.

A “letter of certification” from the [redacted] Market Supervision and Administration Bureau confirms that the Petitioner was hired as “a supervisor for the political and business ethical operations carried out by the bureau,” but does not explain how being hired for this position is equivalent to being admitted as a member of an association that requires outstanding achievements as an essential condition for membership. Although the bureau’s letter states that it assessed potential supervisors based on factors such as their “industry representativeness” and “personal, professional and technical achievements” among other factors, the evidence is insufficient to establish that the Petitioner’s supervisor role with this bureau satisfies the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, the Petitioner maintains that the evidence discussed above “explained the requirements for membership,” but for the reasons explained, this assertion is not persuasive. While the Petitioner submitted a brief certification letter from each association in which he claims membership, the evidence does not address all elements of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) and is insufficient to demonstrate that he has a qualifying membership in an association that requires its members to have outstanding achievements as judged by recognized national or international experts. Most or all the industry associations in which he claims membership appear to only admit company members. While the Petitioner’s appointed or elected leadership positions are notable, the evidence does not demonstrate the formal requirements or processes related to these elections, and we cannot conclude that these roles satisfy the regulatory requirements. Accordingly, the Petitioner has not demonstrated that he meets this criterion.

*Published material about the individual in professional or major trade publications or other major media, relating to the individual’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii)*

The Director acknowledged that the Petitioner submitted several articles from the newspaper *Henan Daily*, however, he determined that the articles are primarily about [redacted] rather than about the Petitioner. The Director also found insufficient evidence to establish that *Henan Daily*, based on the circulation figures submitted, is a major trade publication or otherwise qualifies as a major media. Finally, the Director observed that the Petitioner provided circulation data for *The Washington Post* and *Boston Globe*, but emphasized that he did not provide evidence that he had been featured in either of these publications.

On appeal, the Petitioner maintains that “any article about the company, especially since each one quotes [the Petitioner], is actually about the [Petitioner], since he is functionally the company.” The Petitioner emphasizes that he is the company’s founder, inventor of its proprietary technology and the public face of the company. The Petitioner also maintains that sufficient evidence was submitted to establish that *Henan Daily* qualifies as a major media publication rather than a mere “local publication,” noting that the circulation statistics for two U.S. metropolitan newspapers with national circulation were provided as a basis for comparison.

In support of his claim that *Henan Daily* qualifies as major media, the Petitioner submitted a screenshot from the newspaper’s website that provides an introduction to the publication, noting that it has a daily circulation of 530,000 copies, is “the official newspaper of the Henan Provincial Party Committee of the Communist Party of China,” and that it “covers all the provinces and cities under the jurisdiction

of Henan Province and all counties and districts.” A letter from *Henan Daily* journalist [redacted] describes the newspaper as “the most prestigious and influential newspaper in Henan province with the highest circulation, unparalleled prestige, and tremendous social influence.” Finally, the Petitioner submitted the above-referenced circulation information for *The Washington Post* and *Boston Globe*, noting that both newspapers “are recognized as having significant national distribution” despite having lower circulation numbers than *Henan Daily*.

To establish that *Henan Daily* constitutes major media, the Petitioner would need to provide objective evidence demonstrating that its circulation is high compared to the circulation statistics of other daily newspapers in the Chinese market.<sup>4</sup> Here, the Petitioner provided the newspaper’s self-published daily circulation figure without providing any context of where that figure ranks among its peer publications in China. Comparisons to the circulation of two U.S. newspapers is considerably less relevant in demonstrating how *Henan Daily* qualifies as major media in China. Accordingly, we agree with the Director’s determination that the Petitioner did not establish that *Henan Daily* qualifies as major media.

As noted, the Director also determined that the submitted articles are not about the Petitioner and that some of them did not identify the author of the published material, as required by 8 C.F.R. § 204.5(h)(3)(iii).

We note that several of the submitted articles from *Henan Daily* are similar in content, discussing the history of [redacted], milestones it has reached, the industry in which it operates, and the company’s recent financial performance and activities. The earliest of the submitted articles, from December 4, 2015, does not identify the author of the article. The article includes one brief mention of the Petitioner, identifies him as the company’s chairman, and ends with an indirect quote, attributed to him, about the company’s plans for 2016. The second article, published on June 1, 2016, provides similar information regarding the company and its services, identifies the Petitioner as the chairman, and includes one quote from him. We note that the Petitioner and his leadership of the company are not the focus or subject of either of these articles. A third *Henan Daily* article, published on May 31, 2017, mentions [redacted]’s major customers, its 2016 financial results, its recent projects, and its collaborations with other companies. The only mention of the Petitioner comes in the last sentence of the translated article. This sentence appears to be the caption for a photograph that accompanies the article. It states, “[t]he chairman of [redacted] [the Petitioner], [redacted] [sic], [redacted]” As with the two preceding articles, we cannot conclude that this article is about the Petitioner.

Another article, published in *Henan Daily* on July 19, 2018, and titled [redacted] is about the [redacted] award launched by the newspaper to commemorate [redacted] of entrepreneurship in Henan province. The Petitioner’s photograph, name, and company affiliation appear in the article, as he was one of 40 entrepreneurs selected, but the article does not include any additional information about him and is not about him. In addition, this article does not include a byline or otherwise identify the name of the author.

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<sup>4</sup> See 6 USCIS Policy Manual, *supra*, at F.2 appendix.



The remaining article, published in August 2018 and titled [REDACTED] identifies the source as *Henan Economic Daily*, a publication for which no additional information has been provided. Accordingly, the evidence does not establish that this article was published in a professional or major trade publication or other major media. It is similar in content to the articles from *Henan Daily*, as it discusses the company's history, milestones, performance, recent projects and anticipated future activities. This article mentions that the Petitioner founded the company in 1998, identifies him as the current chairman, and includes one quote from him.

Even if the Petitioner had established that the submitted articles appeared in professional, major trade publications or other major media, we agree with the Director's determination that, although he is referenced, the articles are not about the Petitioner and do not otherwise meet this regulatory criterion. While the Petitioner argues that any article about [REDACTED] is about him because he is "functionally the company," the articles do not portray him in this light or go beyond briefly mentioning his name and his position within the company. The Petitioner also maintains that the Director's analysis "fails to consider longstanding law about publications in this context, referring to *Muni v. INS*, 891 F. Supp. 440 (N.D. Ill. 1995). However, we observe that there is nothing in *Muni* to suggest that an article need only include an individual's name and occupation to be "about" that individual, regardless of the context or the remaining content of that article.

For the reasons outlined above, the Petitioner has not established that he satisfies this criterion.

*Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

To satisfy this criterion, a petitioner must establish that not only have they made original contributions to the field, but also that those contributions have been of major significance. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

In evaluating the criterion, the Director acknowledged that the Petitioner submitted five letters of reference but determined that the letters "did not conform" to the regulation at 8 C.F.R. § 204.5(g)(1) and therefore "offer no probative value." The Director also referenced evidence relating to the Petitioner's patents, noting that a patent alone is insufficient to meet this criterion and that "the contribution of the innovation to the field as a whole must be determined by USCIS on a case-by-case basis." The Director concluded that there was "no evidence" that the Petitioner's patents had resulted in significant commercial sales or had an impact on researchers in the field.

On appeal, the Petitioner emphasizes that the five expert letters that the Director disregarded were specifically submitted to explain the significance of the patents and his original contributions to the field. The Petitioner argues that the regulation at 8 C.F.R. § 204.5(g)(1) applies to experience letters submitted in support of employment-based immigrant petitions in which an individual is required to document prior work experience and does not apply to letters submitted to establish that an individual has made original contributions of major significance consistent with 8 C.F.R. § 204.5(h)(3)(v).

We agree that the Director did not have a valid basis for disregarding the letters of reference submitted in support of this criterion and will consider this evidence along with evidence related to patents issued

to [redacted], which list the Petitioner as an inventor. The Petitioner's initial evidence include a chart listing 42 patents, including their application/patent number, invention title, patent type, date of application and date of authorization.<sup>5</sup> The evidence shows that the utility model patents list the Petitioner as inventor and have been assigned to [redacted] or related subsidiary companies.

The Petitioner provided a reference letter from [redacted] who states that he is the Director and Chief Physician of the [redacted] of [redacted] in [redacted]. [redacted] explains the medical use of [redacted] and states that the [redacted] produced by [redacted] "are essential to the medical industry in the [redacted]" noting that the company is the province's largest producer of [redacted]. The Petitioner also submitted an article titled "[redacted]" published by the website of a U.S. company in the [redacted]. While we do not doubt the medical field's reliance on these [redacted], [redacted]'s letter does not explain how [redacted]'s supply of industry-standard [redacted] to [redacted] medical facilities amounts to an "original contribution" in the field, or how the company's [redacted] products have impacted the field outside of the province. He also does not refer to any of the patents that list the Petitioner as inventor or the significance of any of those patents in the [redacted] field. The fact that the Petitioner's company supplies common [redacted] products for which there is an acknowledged demand is not sufficient to satisfy this criterion.

The Petitioner also provided a letter from [redacted] who states that he is the Deputy Technical Director for [redacted] and a member of several technical committees relating to the [redacted] industry, including [redacted] storage and transportation. In his letter, he praises the Petitioner as a leader in the [redacted] field, provides a list of industries in which [redacted] Company's [redacted] products are used, and emphasizes that many important industries in [redacted] and the [redacted] province "rely on [the Petitioner's] proprietary production and distribution processes." [redacted] also credits the Petitioner with personally organizing research and development projects "that have directly led to creation of critical devices," noting that such technologies are "now routinely used in the production and distribution of essential [redacted]." He lists eight technologies or devices which appear to correspond to devices included on the submitted utility model patent list. However, he does not further describe or discuss these contributions or their uses or specify how they have had an impact or influence on the overall field. His general assertion that these devices are "routinely used" in the field is insufficient to establish their major significance.

The Petitioner's initial evidence included a letter from [redacted] a professor at the [redacted] University of [redacted] and Director of the [redacted] Research Council. He does not state that he has any expertise or background in the Petitioner's field or indicate on what basis he is able to discuss the Petitioner's original contributions in the [redacted] field. [redacted] provides general information about [redacted] and states that the [redacted] produced by the company "is used in numerous industries" and "is essential to companies throughout [redacted] because "they need [redacted] [the company] produces to operate." He also discusses the company's research and development efforts, noting that "the company has multiple laboratories where experts design new techniques to make the use of [redacted] by their client companies far

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<sup>5</sup> The chart lists a total of 42 applications filed, of which 41 are identified as being of the "utility model" type and one is identified as an "inventor patent." At the time the chart was prepared, 10 of the applications had not yet been approved.

more efficient.” Lastly, he credits the Petitioner with creating “a new [redacted] technology for the glass industry” that “increases discharge amounts by 10-30%, reducing quality problems and decreasing the amount of bubbles in the glass.” He does not further discuss this technology, indicate whether it is patented or how it is otherwise considered to be original, or address its importance and how it has already had an impact or influence of major significance in the industry.

The fourth letter of reference was provided by [redacted], a professor at the [redacted] [redacted] who states that he is “a recognized expert in air pollution control, catalysis and porous materials.” He describes the Petitioner as “a leader in the [redacted] development” and praises his commitment to research and development of proprietary technology at [redacted]. [redacted] indicates that the Petitioner’s specific achievements include “creation of [redacted] technologies and [redacted] displacement and storage technologies in cooperation with the [redacted] [redacted] and the [redacted] field.” He emphasizes that, based on their “groundbreaking” nature, these and other projects were recognized through receipt of First and Second prizes for [redacted] in the [redacted] province. However, as discussed above, the record does not establish that the Petitioner or his company received these awards. Further, although the Petitioner emphasizes that the reference letters provide explain how his patents qualify as original contributions of major significance, [redacted]’s letter does not make any specific references to the Petitioner’s patents.

The final letter submitted in support of this criterion is from [redacted] who states that he has served as the President of the [redacted] and as Senior Expert for the [redacted] described as “the world’s largest [redacted] [redacted].” [redacted] states that [redacted] has worked with [redacted] on “a successful [redacted] system for the [redacted] field that will achieve long-term [redacted] onservation and [redacted] reduction.” He also states that the Petitioner has created “exciting engineering application services for the [redacted] industry.” He describes one of these applications, noting that the Petitioner has introduced the use of [redacted] to neutralize the [redacted] wastewater [redacted] noting that these industries have traditionally relied on strong acids to treat wastewater. [redacted] explains that [redacted] [redacted] and through an automatic operation injects the wastewater to reduce its [redacted].” He describes the technique as “an elegant solution” that is ultimately safer and more cost-effective than using strong acids, and notes that this technology “is rapidly replacing the conventional acid treatment.” However, he does not specify whether the technique was created by the Petitioner or if he was simply the first to introduce it in his region, nor does he further elaborate on how widespread or influential the technique has become.

The Petitioner maintains that “many of the concepts that [he] introduced are now industry standards in the industrial [redacted] in China,” but neither the letters discussed above nor the list of patents held by [redacted] provide sufficient support for this assertion regarding the widespread impact of his original work. The record shows that the Petitioner has built a successful [redacted] [redacted] company that appears to serve as a supplier for many industries in [redacted] province, and that he has been credited with developing some of the company’s proprietary technology. However, not every patented device or technique is an original contribution of major significance within the meaning of this criterion. Here, the patents, letters and other supporting evidence indicate that the Petitioner’s company has been recognized for its innovation and steady growth, but are not sufficient to

demonstrate that the Petitioner's contributions have been widely implemented or otherwise had a major impact on the industry in which the company operates. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value. On the other hand, letters that lack specifics do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>6</sup> The letters that praised the Petitioner for his professional achievements with [REDACTED], but do not demonstrate their major significance in the field. The plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-135 (D.D.C. 2013).

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field.

*Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix)

To satisfy this criterion, the Petitioner must demonstrate that he has commanded a high salary or other significantly high remuneration for services in relation to others in his field. The Petitioner provided an accountant-prepared "income certificate" which provides recent financial figures including his personal annual salary (including salary, bonus and allowances), his dividend income earned as a result of his partial ownership of [REDACTED], his income from "personal real estate disposition," and financial information regarding the company's sales, costs, profits and undistributed profits. In an accompanying letter, the Petitioner emphasized that, although he takes a "nominal salary," his equity in [REDACTED] equates to over \$2 million.

The Petitioner did not submit comparative evidence to demonstrate that his salary is high, or that his total remuneration is significantly high, in comparison to that of others employed in his occupation and geographic area.<sup>7</sup> Rather, he provided evidence from the U.S. Department of Labor-sponsored *CareerOneStop* website ([www.careeronestop.org](http://www.careeronestop.org)), indicating that a "high" salary for a chief executive in the United States is "\$208,000+" annually. Although the Petitioner relies on this document as evidence that his total earnings are high, the base salaries of U.S. executives do not provide an appropriate comparison for the total remuneration of a chief executive and shareholder who resides and works in [REDACTED] China.

On appeal, the Petitioner submits a letter from [REDACTED]'s chief financial officer, who provides information regarding the percentage of company shares owned by the Petitioner (both individually and jointly with his family) and notes that he was entitled to significant undistributed profits which he instead opted to reserve for the future operation of the company. In his brief, the Petitioner notes that he was entitled to receive undistributed profits of over \$1.5 million in 2017, \$1.75 million in 2018, and \$2.1 million in 2019. However, the record continues to lack comparative salary and total remuneration data specific to the Petitioner's occupation and geographic location. Even if

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<sup>6</sup> See 6 USCIS Policy Manual, *supra*, at F.2 appendix

<sup>7</sup> *Id.* (stating that persons working in different countries should be evaluated based on the wage statistics or comparable evidence in that country, rather than by simply converting the salary to U.S. dollars and then viewing whether that salary would be considered high in the United States).

the Petitioner demonstrated that he received income in the stated amounts, we would still require a basis to compare his total remuneration to that of other executives in China.

Without providing a proper basis for comparison of his salary and/or total remuneration in relation to others in China, the Petitioner has not established that he has commanded a high salary or other significantly high remuneration for services. Accordingly, he did not demonstrate that he satisfies this criterion.

## B. Summary and Reserved Issue

We conclude that the Petitioner has established that he meets only one of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), of which he must meet at least three to satisfy the initial evidence requirement for this classification. As this determination is dispositive of the appeal, we reserve and will not address the Director's separate determination that he did not demonstrate that he seeks to enter the United States to continue work in the area of extraordinary ability, as required by section 203(b)(1)(A)(ii) of the Act and 8 C.F.R. 204.5(h)(5).<sup>8</sup>

## III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it 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); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

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.

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<sup>8</sup> *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).