



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

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

In Re: 10891868

Date: MAR. 3, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, an industrial engineer, seeks classification as an alien of extraordinary ability.<sup>1</sup> 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 Nebraska Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers, concluding that the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that he met at least three of the ten regulatory criteria. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence.<sup>2</sup> We review the questions in this matter *de novo*.<sup>3</sup> Upon *de novo* review, we will dismiss the appeal.

## I. LAW

Section 203(b)(1) 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.

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<sup>1</sup> See Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A).

<sup>2</sup> Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

<sup>3</sup> See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

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.”<sup>4</sup> 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 that 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 Petitioner received his undergraduate degree from [redacted] University in [redacted]. After moving to the United States to pursue his Master of Fine Arts degree at [redacted] he was accepted to intern at [redacted] in 2012. Prior to completing his internship, he was offered a permanent position with [redacted] where he continues to work today. He currently holds the nonimmigrant status of an individual with an extraordinary ability in the arts.

### 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 claimed to have met six criteria before the Director, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the alien in professional or major media;
- (v), Original contributions of major significance;
- (vii), Display at artistic exhibitions or showcases;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services

The Director found that the Petitioner met the evidentiary criteria relating to published material about his work and the display of his work, but that he had not satisfied the criteria associated with prizes or awards; contributions of major significance; leading or critical role; and high salary or remuneration. On appeal, the Petitioner maintains that he meets each of the criteria upon which the Director issued

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<sup>4</sup> 8 C.F.R. § 204.5(h)(2).

an adverse determination. After reviewing all of the evidence in the record, we agree with the Director that the Petitioner has satisfied the published material and display criteria. Additionally, we conclude that he has also satisfied the prizes or awards and the leading or critical role criteria. As the Petitioner has demonstrated that he satisfies at least three criteria, we will also evaluate the totality of the evidence in the context of the final merits determination further below.

*Documentation of the alien'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).

The Petitioner provided two achievements in his field and material associated with those accolades. The Director determined that the Petitioner did not meet the requirements of this criterion. However, the record supports the Petitioner's eligibility claims related to this requirement because he showed that he was the recipient of two awards, which were nationally recognized prizes for excellence in his field. We do not agree with the Director that due to some minor limitations on each competition's participants, that these achievements did not constitute a prize or an award under the plain language requirements of this criterion. As a result, the Petitioner has submitted evidence that meets this criterion's mandatory elements.

*Evidence of the alien'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).

The Petitioner claims he has submitted evidence of significant contributions to the field of industrial design. In support of his claims, he identifies several letters from those in his field, patents, and lectures he delivered to institutions of higher learning, all of which illustrate how his innovative and award-winning designs have impacted the U.S. market in certain areas and his field in general. To satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.<sup>5</sup> For example, a petitioner may show that his 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.

The Director determined that the advisory letters of support from those in the Petitioner's field were insufficient to meet this criterion.<sup>6</sup> We agree with the Director's determination as the letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to demonstrate the nature of specific original contributions that the Petitioner has made to the field that have been considered to be of major significance. On appeal, the Petitioner asserts there are errors within the Director's statements. In particular, the Petitioner took issue with the Director's declaration that letters he solicited are not presumptive evidence of eligibility, and that this correspondence cannot form the cornerstone of an extraordinary ability claim. The Petitioner states that several letters he submitted were not solicited and that these letters were not the sole evidence offered under this criterion.

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<sup>5</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* 8 (Dec. 22, 2010), <http://www.uscis.gov/legal-resources/policy-memoranda> (Policy Memo) (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

<sup>6</sup> While we discuss a sampling of these letters, we have reviewed and considered each one.

We note a common deficiency within each of the letters as they expressed a great respect for the Petitioner's work, abilities, and achievements, yet none sufficiently explained how any of his original contributions have been of major significance in the field. Nor does the Petitioner make such an argument within any of his correspondence throughout these proceedings. We begin with the letter from [redacted] a design research manager currently working at [redacted] and formerly at [redacted] [redacted] where the Petitioner worked with [redacted] through his employer. Even though [redacted] [redacted] stated that the Petitioner's contributions to certain projects were significant, that he is detailed in his work, and that he is a designer capable of delivering outstanding results, she offered no discernable contribution he has made to the field of industrial design. Similarly, the [redacted] CEO's letter boasts of his abilities and asserts that the Petitioner's capabilities are of vital importance to the industry but does not explain how his work has impacted the field.

Likewise, [redacted] the executive director at [redacted] asserted that the Petitioner is among a select class of [redacted] industrial designers, he possesses outstanding talent, the equipment he designed for [redacted], [redacted], and other achievements reach and evocative user interactivity, and that he has already made a tremendous contribution to the design community. However, [redacted] did not explain how any of these original contributions were of major significance.

Other advisory letters such as the correspondence from [redacted] editor at large for [redacted] discussed unique and award-winning work such as the Petitioner's [redacted] design, and the [redacted] designed in [redacted] but doesn't explain what impact those contributions have had in the Petitioner's field.<sup>7</sup> Also, [redacted] the lead designer at [redacted] noted that the Petitioner designed and implemented many ideas and concepts that would eventually materialize into a major manufacturable product that have innovated and redefined the computer market in the United States and worldwide. However, he did not identify any such ideas and concepts. [redacted] did not explain how the Petitioner has significantly contributed to the field.

When considered collectively, the letters the Petitioner presented contain uncorroborated assertions relating to his impact within the field. Absent are indications of his influence on other industrial designers working in the field and suggestions of how the field has been impacted as a result of his work. It is insufficient to allege eligibility through conclusory assertions that are not supported by sufficient evidence, which proves the allegation.<sup>8</sup> Additionally, we are not required to accept primarily conclusory assertions of eligibility.<sup>9</sup> The Petitioner must have demonstrably impacted his field in order to meet this regulatory criterion.<sup>10</sup>

Regarding the lectures he performed at important design-oriented universities, the Petitioner presented several letters from those representing the institutions. A common theme among the letters reflected how the Petitioner offered information to a small number of students relating to how the actual design practice occurs in the business world. Lacking from the record is any indication the Petitioner's

<sup>7</sup> We also note that the Petitioner's [redacted] designs were covered through media outlets, but none appear to have detailed how either apparatus significantly contributed to the industrial design field.

<sup>8</sup> *Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998).

<sup>9</sup> Policy Memo at 8-9.

<sup>10</sup> See 8 C.F.R. § 204.5(h)(3)(v); see also *Visinscaia*, 4 F. Supp. 3d at 134.

lectures or the business processes he shared with the pupils had any reach beyond a small number of students. For instance, there is no indication that any of the Petitioner's speeches or information from any speech was widely distributed among the field of industrial designers and somehow had an impact within the industry such that it rises to the level of a contribution of major significance. Additionally, the Petitioner has not explained how providing speeches to future industrial designers made an impact within his field sufficient to satisfy this criterion's requirements.

Turning to patents in which the Petitioner was listed as one of the inventors, while these may demonstrate originality, the record lacks an explanation of how any of those patents made any impact in the Petitioner's field of industrial design. We have previously stated that a patent is not necessarily evidence of a track record of success with some degree of influence over the field as a whole.<sup>11</sup> Rather, the significance of the innovation must be determined on a case-by-case basis.<sup>12</sup> The Petitioner's U.S. patents are assigned to various companies. The record does not demonstrate that the individual companies have licensed the inventions and that the accessory has been widely implemented in the field. Therefore, the Petitioner has not established the impact of any patented devices.

The Petitioner does not explain how the evidence he submitted demonstrates he is made contributions of major significance to his field. That he may have created original work that resulted in some product design enhancements falls far short of satisfying the standard here and he has not submitted evidence that meets the plain language requirements of this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner claims that he performed in a critical role for his employer, [redacted] as well as its clients, [redacted] and [redacted]. The Director determined that the Petitioner did not comply with the requirements of this criterion. The Director focused on a lack of evidence that he performed in a qualifying role for the organizations as a whole, as well as not demonstrating that [redacted] is a qualifying organization. A leading role should be apparent by its position in the overall organizational hierarchy and the role's matching duties. A critical role should be apparent from the Petitioner's impact on the organization or the establishment's activities. Ultimately, the leading or the critical role must be performed on behalf of the organization that enjoys a distinguished reputation, rather than for a subordinate group.<sup>13</sup> The Petitioner's performance in this role should establish whether the role was critical for organizations or establishments as a whole. The Petitioner must demonstrate that the organizations or establishments have a distinguished reputation. USCIS policy reflects that organizations or establishments that enjoy a distinguished reputation are "marked by eminence, distinction, or excellence."<sup>14</sup> The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

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<sup>11</sup> See *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at \*6 (S.D. Cal. May 31, 2019). See also *Matter of New York State Dep't. of Transp.*, 22 I&N Dec. 215, 221 n.7, (Comm'r 1998) (even though this decision was vacated as it relates to adopting a new framework for adjudicating national interest waiver petitions, the comparative analysis relating to patents remains valid and pertinent to this case).

<sup>12</sup> *Id.*

<sup>13</sup> See *Strategati, LLC*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at \*7; *Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 545 (S.D.N.Y. 2012).

<sup>14</sup> Policy Memo at 10–11.

The Petitioner has satisfied the plain language requirements of this criterion through his roles performed for [redacted] an industrial design company based in [redacted]. The Petitioner has worked for this organization since 2012 and rose to the creative director and lead designer positions within the company. Within that role, the Petitioner has performed high-level work for the company's international clients designing [redacted] task chairs, [redacted], a [redacted] bottle opener, and parts for [redacted] equipment. While the Petitioner did not establish where [redacted] ranks among its competitors, he did demonstrate that the company has received awards such as three [redacted] awards, one award from *Time Magazine International*, and another from *ID Magazine*. This satisfies this criterion's requirements.

Although the Petitioner may have met the requirements for this criterion based on his employer, he did not demonstrate he performed in a qualifying role for either [redacted] or [redacted]. As it relates to [redacted] or [redacted], the Petitioner provided two letters from [redacted]. [redacted] described several of the Petitioner's designs that [redacted] has incorporated into certain lines of its smaller [redacted] equipment. However, [redacted] holds the title of "Product Engineer/Industrial Designer" and it is not apparent that he holds the authority within the [redacted] organization to make statements relating to the extent that the Petitioner's role was influential for the entirety of that company's success or maintenance of their position within their industry. For instance, he is not a senior designer within the organization, nor the head of a major department. For evidence that weighs so heavily upon eligibility, it should originate from an authorized individual within the company. We further note that the record lacks probative evidence to corroborate [redacted]'s statements as they relate to the critical role the Petitioner performed for this multinational conglomerate. Therefore, the material relating to [redacted] carries diminished evidentiary value in these proceedings.

Regarding [redacted], as their manager of technology and design, [redacted] penned a letter in which he claimed the Petitioner led the design and development of the first [redacted] in [redacted]'s history specifically designed for infants and toddlers between the ages of zero and two years old. We note the record does not contain evidence to corroborate this assertion. [redacted] also claimed that this [redacted] "further created a life-long trustworthiness to the company amongst our customers." Documentary evidence of this level of brand loyalty was not submitted to support [redacted]'s assertion. Such statements made without supporting documentation are of limited probative value and are insufficient to satisfy the Petitioner's burden of proof.<sup>15</sup> Although [redacted] described the Petitioner's role in designing this and other items for the company, and offered current and projected sales figures, he did not demonstrate how those figures impacted the [redacted] organization as a whole. Ultimately, the Petitioner did not "establish that [he] has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities."<sup>16</sup>

While the Petitioner has submitted evidence that meets the plain language requirements of this criterion based on his role at [redacted], he has not shown that his role was qualifying for the other claimed organizations.

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<sup>15</sup> *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998).

<sup>16</sup> Policy Memo at 10.

*Evidence that the alien 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).

The Petitioner provided several Internal Revenue Service (IRS) documents, Form 1099-MISC, Miscellaneous Income for the tax year 2018 and wage data from the Bureau of Labor Statistics (BLS), LinkedIn, and coroflot.com. The Director determined that the Petitioner did not meet the requirements of this criterion.

The Petitioner does not identify any particular error on the Director's part other than to disagree with his decision under this criterion. A review of the Petitioner's 2018 IRS Forms 1099-MISC reflected he earned wages from [redacted] (\$71,559.36); [redacted] (\$7,330); [redacted] (\$1,610); [redacted] (\$8,820); and [redacted] (\$1,340). The Petitioner's total earnings from the material in the record for 2018 was approximately \$90,660. However, the Petitioner only submitted a letter from [redacted] to demonstrate what type of work he performed in return for the compensation listed on the IRS forms. As a result, the Petitioner has only demonstrated that he earned roughly \$71,560 for his work in the industrial design field. Demonstrating the type of work he performed for the compensation is required as he must demonstrate that he "has commanded a high salary or other significantly high remuneration for services, in relation to others in the field."<sup>17</sup> It is unclear how compensation the Petitioner receives, that is unrelated to his field of endeavor, should factor into our analysis under this criterion.

Additionally, comparing his earnings to the mean or median salaries for those performing similar work in the [redacted] area does not demonstrate his salary was high. This is especially the case when his earnings from [redacted] (\$71,560) were approximately \$3,000 less than the mean salary in his area of the country according to the BLS data assigned to the standard occupational code 27-1021 Commercial and Industrial Designers. Moreover, average salary statistics do not provide a proper basis in which to compare to the Petitioner's figures, as he must show compensation "in relation to others in the field" performing similar work.<sup>18</sup> The record is void of objective earnings data showing that the Petitioner has earned a "high salary" or "significantly high remuneration" in comparison with those performing similar work during the same time period.<sup>19</sup>

In summary, the Petitioner has demonstrated his evidence satisfies the minimum number of eligibility criteria and we will perform a final merits determination considering all of his claims and achievements collectively.

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<sup>17</sup> 8 C.F.R. § 204.5(h)(3)(ix).

<sup>18</sup> *Strategati, LLC*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at \*7 (in which the court agreed that average salary levels do not allow for an appropriate basis for comparison in determining a high salary "in relation to others in the field").

<sup>19</sup> See *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); see also *Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen).

## 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.<sup>20</sup> In this matter, we determine that the Petitioner has not shown his eligibility.

Over a six-year period before he filed this petition, the Petitioner has built a career in his field and has gained recognition. He won a prominent industrial design award, has designed products for well-known companies, and his work has been recognized in national publications.

Although we did not agree with the Director as it relates to the Petitioner's prizes or awards under the criterion at 8 C.F.R. § 204.5(h)(3)(i), we conclude that the Petitioner has not met the high standard of this category in this final merits determination. His awards consisted of the "established" category for the 2016 [redacted] Design Competition and the 2011 [redacted] Challenge Design award. As it relates to the 2016 [redacted] award, the only requirement was for the competitor's business or professional career to consist of three years of experience and it required an entry fee. This award received national-level attention on a Canadian news website. The 2011 [redacted] Challenge Design award recognized the Petitioner's efforts in this design competition at the [redacted] International Auto Show, and his receipt of this award received national-level attention in [redacted] publications. Despite these achievements occurring at a notable level, these awards are not sufficiently representative of sustained acclaim nor are so few accolades indicative of the very high standard to present more extensive documentation.<sup>21</sup>

Published material covering the Petitioner and his work first appeared in 2016 in a national-level publication in Canada relating to one of his awards. In the subsequent years through 2019, other national media have focused on three of the Petitioner's other designs. Although he has garnered some media attention relating to his life story, such as the interview with a publication from [redacted] the bulk of the material related to his 2016 [redacted] award and jewelry he designed. However, the Petitioner did not show how his overall media coverage is indicative of a level of success and being among that small percentage who has risen to the very top of the field of endeavor.<sup>22</sup> Thus, the Petitioner did not establish that the limited media reporting on him and his activities reflected a "career of acclaimed work" in the field or the high standard to present extensive documentation.<sup>23</sup>

As we detailed above, the Petitioner did not submit sufficient evidence demonstrating that he satisfied the original contributions of major significance requirements. The advisory letters commented on his

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<sup>20</sup> 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. *See also* Policy Memo at 4 (stating that USCIS officers should then 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 of the immigrant classification).

<sup>21</sup> See H.R. Rep. No. 101-723 at 59 and 56 Fed. Reg. at 30703, 30704 (July 5, 1991).

<sup>22</sup> See 8 C.F.R. § 204.5(h)(2).

<sup>23</sup> See H.R. Rep. No. 101-723 at 59 and 56 Fed. Reg. at 30703, 30704 (July 5, 1991).



work without showing how that work represented an individual whose achievements have been recognized in the field through extensive documentation. While the Petitioner has shown that he has created original work, the simple aspect that this work was “original”—in that it did not merely duplicate prior designs—is not useful in setting him apart through a “career of acclaimed work.” The level at which the Petitioner’s contributions have impacted his field, as a whole, is a predominant factor as to whether he is among that small percentage who has risen to the very top of the field of endeavor and has sustained national or international acclaim at such an elevated level.

The Petitioner met the minimum regulatory requirements under the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii) based on one organization; however, his arguments fell short of illustrating such a qualifying role under two other companies. Although the Petitioner claimed his contributions as a designer to these organizations have resulted in patents and significant increases in sales, he did not produce probative evidence to corroborate this claim relating to sales, and also did not show what level of impact those sales had on the respective organizations. The documentation submitted by the Petitioner is not indicative of or consistent with sustained national acclaim or a level of expertise indicating that he is one of that small percentage who have risen to the very top of his field.

The Petitioner’s demonstrated earnings within his relative field were below average, which falls far short of illustrating that he enjoys the status as one of that small percentage who have risen to the very top of their field of endeavor. Even if his compensation would have been at a much higher level, the Petitioner only provided earnings data for a single year and this would not be illustrative of the requisite acclaim at a sustained level.

In summary, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard.<sup>24</sup> The Petitioner’s evidence confirms that during his six years of professional work, he has not yet assembled achievements at a level which would qualify him for this classification, but instead he appears to be well within the beginning stages of such an acclaimed career. Considering the full measure of the Petitioner’s ability and achievements, the level of his national or international acclaim and the extent to which his achievements have been recognized in the field are not indicative of a record of sustained acclaim. Also, he has not submitted extensive documentation exhibiting he has attained a level of expertise placing him among that small percentage that has risen to the very top of the field of endeavor.

### 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. In visa petition proceedings, it is a petitioner’s burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

**ORDER:** The appeal is dismissed.

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<sup>24</sup> *Price*, 20 I&N Dec. at 954.