



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 15821268

Date: MAR. 26, 2021

Appeal of Texas Service Center Decision

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

The Petitioner, an associate professor of computer science, 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 Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner satisfies at least three of the ten initial evidentiary criteria for this classification. The matter is now before us on appeal.

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

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 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

At the time of filing, the Petitioner was employed as an associate professor at the Institute of Computing Technology, [REDACTED]. The Petitioner's resume reflects that he worked for [REDACTED] as a research scientist from 2007 until 2010, and later as a senior research scientist and director assistant from 2010 through 2014. In 2007, he received his doctorate degree in computer science from the Institute of Computing Technology, [REDACTED] [REDACTED] where he also worked as a research assistant during his graduate studies. The Petitioner states that his research interests include [REDACTED] and [REDACTED], including [REDACTED] [REDACTED] models, [REDACTED] [REDACTED], and information theory.

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).

In denying the petition, the Director determined that the Petitioner fulfilled two of the initial evidentiary criteria, judging at 8 C.F.R. § 204.5(h)(3)(iv) and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). The record reflects that the Petitioner has peer reviewed manuscripts for several conferences in his field. In addition, he authored scholarly articles in professional publications including scientific journals and conference proceedings. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria.

On appeal, the Petitioner asserts that the Director erroneously determined that he does not meet a third criterion, related to his original contributions in the field, which we will discuss below. After reviewing all the evidence in the record, we conclude that the record does not support a determination that the Petitioner satisfies the requirements of at least three criteria.

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).

In order to satisfy the regulatory criterion 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.¹ 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.

The Petitioner has submitted evidence relating to the publication of his research in professional journals and conference proceedings (including evidence of citations of his work), evidence related to his patents, letters from experts in his field (including colleagues and independent experts) who discuss his work and his reputation, and evidence related to the practical application of his work by private sector companies.

The Petitioner places considerable emphasis on his overall publication and citation record in support of his assertion that he meets this criterion. While we will discuss this evidence below, we emphasize that this criterion requires the Petitioner to establish that he has made original contributions of major significance in the field and not simply to establish that his total number of citations compares favorably to others in his field. It is the Petitioner's burden to identify his specific original contributions, explain why they are of major significance in the field, and to submit sufficient evidence to corroborate that significance.

The Petitioner has consistently stated that his original contributions of major significance in the [redacted] and [redacted] field fall within three areas: (1) development of "novel approaches for [redacted] from [redacted] data"; (2) development of "novel frameworks for [redacted] understanding and [redacted]"; and (3) development of "new models that significantly increase the accuracy of [redacted]" in the field of [redacted]

The Petitioner provided five independent expert opinion letters in support of the petition, each of which discusses two of his published papers. As discussed below, the authors of the letters describe the Petitioner's work in significant technical detail, state where his research was published, and then declare with minimal elaboration that the Petitioner's work is of major significance in the [redacted] field. Further, with one exception, the letters do not focus on the work that the Petitioner himself identified as highly cited in his field.

For example, [redacted] a vice president with [redacted] states that the Petitioner "conducted pioneering research on defining [redacted]" explains the research, and notes that the Petitioner was able to present "the convenient and unified checking conditions for any [redacted] [redacted] generalizing and illuminating the common nature of all [redacted]." [redacted]'s reference to the research as "pioneering" is not sufficient to establish that it had a remarkable impact or influence or that is otherwise deemed a contribution of major significance in the field. He also

¹ 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 8-9 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (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).

discusses the Petitioner's "studies on [redacted] in [redacted] systems, explains these studies in detail, and states that "the [redacted] identified by [the Petitioner] are conducive to better organizing [redacted] so as to attract more user dwell time in these systems." He notes the publication of the two referenced studies in IEEE Transactions on Information Theory and in the Proceedings of The 25th International Joint Conference on Artificial Intelligence (IJCAI), respectively.² [redacted] does not further describe how either of the papers mentioned is of major significance or otherwise discuss the impact or influence of the Petitioner's findings in their shared field. He concludes that the Petitioner's work "has helped shape the modern data science field" but does not elaborate on this critical point.

[redacted] Vice President of Engineering and [redacted] at [redacted] likewise provides highly technical descriptions of two of the Petitioner's research studies.³ He explains that the Petitioner developed a [redacted] and published his work in the AAAI Conference on Artificial Intelligence. [redacted] also discusses the Petitioner's proposal of "a [redacted]" and notes that both of these [redacted] machine methods "perform better than baseline methods." However, he does not describe how these methods have impacted or influenced further research or state that the methods have achieved widespread application in the field. He offers a general conclusion that the Petitioner's "significant discoveries" have "significant impact on the development of new methods for [redacted] [redacted] generation, and the benefits of [his] research are national in scale," but he does not explain the impact or the resulting benefits.

A letter from [redacted] Chair Professor at the [redacted] University of Science and Technology follows a similar pattern. He provides a technical description of a study in which the Petitioner "successfully realized [redacted] from multiple source domains via [redacted]" and another study in which the Petitioner "developed [a] novel method for [redacted] and [redacted] across multiple domains using [redacted] model for [redacted]" [redacted]'s summaries of the Petitioner's published studies are highly detailed but he does not explain the influence or impact of the Petitioner's research in the field or otherwise offer an assessment or analysis of how either of these individual research contributions is considered a contribution of major significance. Rather, he generally credits the Petitioner with presenting "a host of developing novel methods for [redacted] [redacted]" and states that "the huge influence of his research" is reflected in his cumulative citation numbers.

The Petitioner also provided a letter from [redacted] an associate professor at [redacted] University at [redacted] [redacted] states that the Petitioner "made significant contributions to [redacted] [redacted]," which she describes as "an important [redacted] problem with many broad applications." She provides technical details regarding two of his published articles in this area of

² The Petitioner's Google Scholar profile submitted at the time of filing in August 2018 did not include either article referenced by [redacted]. An updated profile the Petitioner submitted in response to the Director's request for evidence (RFE) indicated that the articles had been cited 10 times and 1 time, respectively, as of February 2019.

³ Neither of the studies referenced by [redacted] appeared on the initial Google Scholar profile submitted at the time of filing; the updated profile showed 14 citations to the Petitioner's 2017 AAAI paper [redacted] [redacted] and 0 citations to his 2018 AAAI paper [redacted] [redacted].

research, noting his development of [redacted] that he has named [redacted] and [redacted]⁴ [redacted] describes the Petitioner's approach as "innovative and creative" and states that he was "a pioneer in [redacted] [redacted] concludes her letter by stating that the Petitioner "has made many crucial contributions of both [redacted] research" but she does not explain how his work in the area of [redacted] has been remarkably influential or impactful in the field or provide further explanation as to why his [redacted] are considered a contribution of major significance within the meaning of 8 C.F.R. § 204.5(h)(3)(v).

Finally, the record contains a letter from [redacted] Chair Professor of Finance at [redacted] Graduate School of Business, who discusses the Petitioner's 2012 publication titled "[redacted] [redacted] He explains that that the Petitioner developed [redacted]" which he describes as "a method for [redacted] [redacted] and explains what [redacted] is and why it is a challenging problem in data science. [redacted] states that while several methods had been proposed to tackle the challenge, the Petitioner's [redacted] framework was a novel framework that proved to "achieve significantly higher accuracy over state-of-the-art methods." He indicates that the Petitioner's work "has been extensively followed by his peers and the paper has been cited 188 times so far." But he does not indicate the significance of the number of citations or, more importantly, detail how the Petitioner's framework has been particularly impactful or influential in the field or explain how it has been applied by others. While the record reflects that this paper is the Petitioner's most-cited work, neither the citation history nor [redacted]'s letter offers sufficient support for a conclusion that it is regarded in the field as a contribution of major significance.

The letters considered above uniformly praise the Petitioner for his work, but primarily contain technical descriptions of the Petitioner's research and attestations of its novelty without providing specific examples or probative analysis of how his contributions rise to a level consistent with major significance. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁵ 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.⁶ The authors' assertions in the above-referenced letters do not explain how the Petitioner's research findings have been widely implemented in the field or establish that the Petitioner's work has had an impact in the field commensurate with a contribution of major significance.

As noted, the Petitioner places considerable emphasis on the publication of his work in high-impact journals in his field, on his cumulative citation numbers, and on the citation rates for some of his

⁴ The two publications mentioned in [redacted]'s letter were not listed on the initial Google Scholar profile submitted with the petition. The updated document submitted in response to the RFE showed that the Petitioner's 2012 paper [redacted] had been cited 15 times, and his 2015 paper "[redacted]" had been cited 6 times.

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁶ *Id.* at 9.

individual publications. We have considered this evidence in conjunction with the Petitioner's own explanations of his contributions in the field and the opinions of experts discussed above.

While he contends that he authored "high-quality scientific publications in top-ranked journals and conferences," the Petitioner did not demonstrate that publication of his articles in highly ranked or prestigious journals or conference proceedings is sufficient to demonstrate that he has made original contributions of major significance. A given publication's high ranking or impact factor only reflects the publication's overall citation rate; it does not demonstrate an individual author's influence or the impact of their research in the field. Nor is there evidence to support a conclusion that any article published in a highly ranked journal automatically reflects a contribution of major significance.

The Petitioner also emphasizes his cumulative citation numbers, as reflected in his Google Scholar profile.⁷ He notes that according to information published by InCites: Essential Science Indicators, "researchers in the computer science field whose research has received 150 citations are ranked in Top 1% in the field," and states that his cumulative citations exceed this threshold by 10 times. In general, the comparison of the Petitioner's cumulative citations to others in the field is more appropriate in determining whether the record shows sustained national or international acclaim and demonstrates that he is among the small percentage at the very top of the field of endeavor in a final merits determination, in those cases where a petitioner has satisfied at least three of the ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). See *Kazarian* 596 F.3d at 1115.

Another set of data presented by the Petitioner is intended to compare the rate and frequency of citations to his individual articles to those of other scientists in his field. The Petitioner provides a chart in which he lists nine publications (published between 2011 and 2015) that fall among the "most cited papers in Computer Science field" according to the percentile rankings provided by InCites: Essential Science Indicators. Specifically, he indicates that citations to the listed publications places each of them within the top 0.1 to 1% of all papers published in the field in the same year. Based on the evidence the Petitioner provided from Google Scholar, the nine articles he identifies as highly-cited had been cited between 26 and 196 times at the time he filed this petition. Of these, four papers had fewer than 50 citations, three had citations in the 68 to 80 range, one had 104 citations, and one had 196 citations and is his most-cited paper overall.

As noted, the burden is on the Petitioner to not only identify his original contributions but also to explain why they are of major significance in the field. Generally, citations can serve as an indication that the field has taken interest in a petitioner's research or written work. However, comparative rankings to baseline or average citation rates do not automatically establish that a given petitioner has made a contribution of major significance in the field. A more appropriate analysis, for example,

⁷ The Director determined that there were inconsistencies in the record with respect to the Petitioner's Google Scholar profile. We note that the profile submitted at the time of filing lists 20 publications and a cumulative citation count of 1677, while the updated profile submitted in response to the RFE lists significantly more than 20 publications and 1867 cumulative citations. The first list appears to represent the Petitioner's top 20 publications, while the second listing appears to be complete. Given the passage of approximately six months between the date of filing and the date of the RFE response, we do not find the number of cumulative citations to be inconsistent. We emphasize, however, that the Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). For this reason, our focus is on the initial citation record submitted at the time of filing.

would be to compare the Petitioner's citations for individual articles to other similarly, highly cited articles that the field views as having been of major significance, as well as factoring in other corroborating evidence. Highly cited publications alone are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance" as a citation ranking does not provide sufficient context to determine the impact or importance of a given researcher's work in the field. That context must be provided by other evidence in the record.

The Petitioner has not demonstrated, as he asserts, that any of the nine articles he characterizes as highly cited resulted in an original contribution of major significance in the field. While the Petitioner submitted corroborating evidence in the form of expert opinion letters, that evidence, for the reasons already discussed, is not sufficient to establish that the Petitioner's research findings, individually or collectively, have remarkably impacted or influenced his field. In fact, of these nine publications, only one of them is mentioned in one of the expert opinion letters submitted in support of this criterion. Although the Petitioner's citations indicate that others in the field have referenced his work, he did not establish that the submitted citation statistics alone reach the threshold of "major significance" as required by the regulation at 8 C.F.R. § 204.5(h)(3)(v).

Further, the record indicates that the Petitioner submitted samples of several research articles that cited to his work. A review of those articles, though, does not show the significance of the Petitioner's research to the overall field beyond the authors who cited to his work. For instance, the Petitioner provided a copy of a 2016 article titled [redacted]⁸ that references the Petitioner's 2015 article in the Proceedings of the 24th ACM International Conference in Information and Knowledge Management.⁹ The Petitioner's paper is mentioned among several previous studies of [redacted] and the authors observed that all previous methods, including the Petitioner's, [redacted]. However, the article does not distinguish or highlight the Petitioner's written work from the other cited papers. The submitted research articles reference the Petitioner's work as evidence of recent research, and, while the articles indicate that the authors' own research built upon the Petitioner's work, as well as the work of the other cited scientists, the Petitioner did not demonstrate that the overall field views his published findings as original contributions of major significance. Many of the submitted articles cite to papers authored by the Petitioner that are not otherwise claimed to involve contributions of major significance. For example, they are not citations to the publications he characterizes as highly cited or to publications that are mentioned in the submitted expert opinion letters. The mere citation of work by others does not automatically show the "major significance" of this work.

The Petitioner also emphasizes that his publications have been cited in several book chapters and more than 15 review articles. The Petitioner asserts that "review articles only include those meaningful progresses in [a] certain field," and therefore "being highlighted in a large number of reviews and books serves as solid proof for the great interest on [his] research." The Petitioner's evidence in this regard consists of a chart which lists the titles of book chapters and review articles, and the names of the books or professional publications in which they were published. He did not provide copies of

⁸ Although we discuss a sample article, we have reviewed and considered each one.

⁹ The Petitioner also highlighted a second publication cited in this article. That publication, titled [redacted] [redacted] was authored by [redacted] [redacted] [redacted] and [redacted]. This article does not appear on the Petitioner's Google Scholar profile. A search for the article's title on Google Scholar reflects that it was co-authored by a computer scientist at the University of [redacted] who has the same name as the Petitioner.

review articles that cite his work or identify which of his articles have been referenced in review articles. While the evidence indicates that the Petitioner has made original contributions to what appears to be an active field of research, we cannot determine that every publication cited in a review article is one the field recognizes as majorly significant.

The Petitioner has also provided evidence that he has been listed as a co-inventor on five U.S. patent applications that were filed during his employment with [redacted]. A patent recognizes the originality of the idea, but it does not by itself demonstrate that the inventor made a contribution of major significance in the field. Rather, the significance of the innovation must be determined on a case-by-case basis. Here, the evidence related to these patents is limited to copies of the first page of the patent application publications themselves. The patent applications are not discussed in the Petitioner's statements or the expert opinion letters, and the record is otherwise lacking an explanation as to how the patented technologies have had an impact of major significance in the field.

Finally, the Petitioner asserts that he has made contributions to products and technologies that are widely used by major [redacted] companies. He provided evidence that he is a co-founder of [redacted] and asserted that the company's products, which he states are based on his research, "have been used by famous companies and organizations." This evidence included a letter from [redacted] CEO, who certifies that the Petitioner is the co-founder and chief scientist of [redacted] and asserts that he is responsible for the company's [redacted] research team. [redacted] also certifies that "the core [redacted] for all the products (general products such as [redacted], [redacted], [redacted] and those organization-customized products) of our company are developed by [the Petitioner] and his team."

The Petitioner emphasized that the company's products have been used by [redacted], the [redacted] Stock Exchange, and [redacted] Stock Exchange. He provided copies of contracts signed in 2018, but did not provide any additional documentation or explanation regarding [redacted] its products, or how those products represent original contributions of major significance that have already had a remarkable influence or impact in the field.

The Petitioner also states that, during his tenure at Institute of Computing Technology, [redacted] he has been involved in collaborative research projects with the [redacted] Stock Exchange and with leading [redacted] companies [redacted] and [redacted]. In support of his claim, he submitted a "Certificate of Achievement for Joint Project" from each of these entities, all dated in September 2016. The certificates attest to the Petitioner's collaborative research work with these entities, describe that research, and indicate the benefit or potential benefit to the respective companies. However, they do not provide sufficient explanation of the major significance of his contributions in the field.

For example, the "Certificate of Achievement" from [redacted] states that "the [redacted] center of [redacted] Department for [redacted]'s [redacted] business group," worked with the Petitioner "to tackle key problems with respect to 'the establishment of the [redacted].'" The certificate explains the research, notes that it resulted in two conference papers that were under review and indicates that the company "applied for four patents sharing the intellectual property rights with Institute of Computing Technology." It further states that the

technologies that form the subject of the patents and conference papers would “become the core ones of the [redacted] platform.” At the time the submitted certificate was written, the research was still in a developmental phase and the platform had not been launched. The record does not include evidence that the Petitioner co-authored the referenced patents or conference papers or evidence of the significant impact or influence of this work in the field.

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

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.