



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

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

In Re: 27032681

Date: AUG. 14, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a technology engineer and entrepreneur, seeks classification as an individual of extraordinary ability. 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 that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will sustain the appeal.

## I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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 may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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 is a technology engineer and entrepreneur who has formed several start-up companies based on technologies that he has developed and which have garnered large investment sums. He intends to continue his work in the United States developing technology related to artificial intelligence (AI) and self-driving vehicles.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or shown that he 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 Director determined that the Petitioner met one of the criteria he claimed to have satisfied: published material about the Petitioner and his work in professional or major trade publications or other major media.<sup>1</sup> The record supports this determination. The Director concluded, however, that the Petitioner did not establish that he met criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (v), (viii), and (ix). On appeal, the Petitioner asserts that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (v), and (viii); he indicates that USCIS used incorrect judgment in interpreting the evidence of his case. In addition to meeting the criterion at 8 C.F.R. § 204.5(h)(3)(iii), we conclude that the Petitioner satisfies the criteria at 8 C.F.R. § 204.5(h)(3)(v) and (viii).

*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).*

The Petitioner satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(v) by demonstrating his original contributions of major significance to the field of technology. Specifically, endorsement letters, patent applications, and articles in the record demonstrate his original contributions of major significance in natural language processing technology and AI.

*Evidence that the individual 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 satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii) by showing that he has performed both leading and critical roles for companies that have distinguished reputations. Notably, the record

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<sup>1</sup> *See* 8 C.F.R. § 204.5(h)(3)(iii).

contains letters of endorsement and articles demonstrating his leading and critical roles at his distinguished technology companies.

The Petitioner sufficiently demonstrates that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(iii), (v), and (viii). Therefore, we will evaluate the totality of the evidence in the context of a final merits determination, discussed below.

#### B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination that considers the entire record in the context of whether or not the Petitioner has demonstrated, by a preponderance of the evidence, that he enjoys a level of expertise indicating that he is one of a small percentage who have risen to the very top of the field of endeavor, and that he has sustained national or international acclaim and that his achievements have been recognized in the field of expertise. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if a petitioner's successes are sufficient to demonstrate extraordinary ability in the field of endeavor. *See* section 203(B)(1)(A)(i) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. We conclude that the Petitioner has demonstrated his eligibility for this classification.

The record establishes that the Petitioner has made valuable contributions to the field of technology—specifically regarding artificial intelligence and automated vehicles—through his innovative approaches to solving issues related to voice recognition and data latency. The letters of endorsement from accomplished figures in the technology sector—as well as media coverage relating to the Petitioner's contributions in the field—not only show that his original work at his companies has significantly impacted the fields of artificial intelligence and remote vehicle operation; this evidence is also indicative of the Petitioner's acclaim in the field nationally. The Petitioner was accepted into an entrepreneurial immigration incentive program in Ireland that has rigorous standards for application acceptance. Also of note is the following evidence of the Petitioner's standing in the field, as described in a letter from an experienced expert in the technology sector:

[The Petitioner] was selected to join Forbes Business Council, an extremely selective and prestigious organization that consists of respected leaders and executives who are selected based on the depth and diversity of their experience in technology, management, leadership, customer engagement, and growth. Becoming a part of this elite community attests to the fact that [the Petitioner] is a valued expert. Thanks to his internationally recognized expertise, he was also invited to Harvard Leaders Excellence and Enterprise Island, two other important organizations that allow only the very best to join their ranks.

A significant element in determining the Petitioner's relevancy in the field of technology is the fact that venture capital firms have invested tens of millions of dollars into his companies because—according to letters of endorsement and interviews—they believe the Petitioner has consistently demonstrated that he is a visionary who can overcome obstacles to his ventures by creating innovative technological solutions. Finally, the fact that the Petitioner performs both leading and critical roles at

companies receiving considerable venture capital and media attention speaks to his renown in the field and the distinguished reputations of those companies.

The totality of the record, including the Petitioner's original contributions of major significance to the field, the impact of his work in the field, the roles he has performed for his companies, and the published materials about his work confirm that he enjoys a level of expertise that is consistent with a finding that he is one of a small percentage who have risen to the very top of the field of endeavor, that he has sustained national or international acclaim, and that his achievements have been recognized in the field of expertise. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Accordingly, the Petitioner has established by a preponderance of the evidence that he is eligible for the exclusive classification sought.

### III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized in this field of expertise. Finally, the Petitioner has shown that he intends to continue work in his area of extraordinary ability and that his entry will substantially benefit prospectively the United States. Therefore, the Petitioner has established his eligibility for the benefit sought under section 203 of the Act.

**ORDER:** The appeal is sustained.