



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

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

In Re: 6337235

Date: AUG. 3, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a chief operating officer, seeks classification as an alien 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 Petitioner had satisfied only two of the initial evidentiary criteria, of which she must meet at least three.

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 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 sustained acclaim and the 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 categories 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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner asserts on appeal that the Director “erred in his decision as he applied “a far higher evidentiary standard than the preponderance of the probabilities” whereas the Director “needs only to find that it is more likely than not that she is an individual of extraordinary ability.” She argues that the evidence submitted with the instant petition “made a strong *prima facie* case of eligibility” not only because the Director determined that she met two of the initial evidentiary criteria, but also due to “the Service’s prior finding that three virtually identical criteria are satisfied (by approving [her] existing O-1A petition.)”¹

We note that the record indicates that the Petitioner has previously been granted O-1 status, a classification reserved for nonimmigrants of extraordinary ability. However, this does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard - statute, regulations, and case law. Many Form 1-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *affd*, 905 F. 2d 41 (2d Cir. 1990).

Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not

¹ The Petitioner also argues that the Director erred because he “wrongly states” that the Petitioner “holds an O-1B visa and that mere nominations for awards are sufficient for her O-1 status,” and “apparently conflates the O-1B criteria applicable to the arts with the O-1A criteria applicable to the sciences.” This argument is inapposite here. While the Director incorrectly lists the Petitioner as providing evidence that she holds an O-1B visa, the matter before him was whether the Petitioner submitted evidence sufficient to establish her eligibility for classification as an immigrant of extraordinary ability, not as a nonimmigrant of extraordinary ability. The Director’s decision correctly evaluated the evidence in the record to determine if it met the requirements for the classification sought.

bound to follow that finding in the adjudication of another immigration petition. *Louisiana Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

She further asserts on appeal that the record establishes that she has satisfied the requisite three initial evidentiary criteria, and she has therefore demonstrated her eligibility to be classified as an alien of extraordinary ability. Specifically, the Petitioner references *Buletini v. INS*, 860 F. Supp. 1222 (E.D. Mich. 1994) in noting, “[t]he *Buletini* court’s precise language regarding what must happen next once at least three criteria are satisfied is illuminating.” She then quotes the following from *Buletini*: “the alien must be deemed to have extraordinary ability unless the INS sets forth specific and substantiated reasons for its finding that the alien, despite having satisfied the criteria, does not meet the extraordinary ability standard.”²

We note, however, that in contrast to the broad precedential authority of the case law of a United States circuit court (such as with *Kazarian*), we are not bound to follow the published decisions of a United States district court in cases arising within the same district. See *Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). The reasoning underlying a district judge’s decision will be given due consideration when it is properly before us; however the analysis does not have to be followed as a matter of law. *Id.* At 719.

Regardless, the above quote from *Buletini* indicates that the court considered the possibility that a petitioner can submit evidence satisfying three criteria and still not meet the extraordinary ability standard if USCIS provides specific and substantiated reasoning for its conclusion. See *Buletini*, 860 F. Supp. at 1234. The court in *Buletini* did not reject at any time the concept of examining the quality of the evidence presented. Specifically, the court in *Buletini* acknowledged, “the examiner must evaluate the quality, including the credibility, of the evidence presented to determine if it, in fact, satisfies the criteria.” *Id.* As discussed below, we conclude that the Petitioner has established that she satisfies three of the initial evidentiary criteria. However, for the foregoing reasons, we do not find that this alone establishes her eligibility for the classification sought.

A. Evidentiary Criteria

As the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to judging and to scholarly articles. We agree with the Director that the Petitioner satisfies these two criteria.

On appeal, the Petitioner asserts that she also meets the evidentiary criteria relating to awards, published material, original contributions, and leading or critical role.³ After reviewing all of the

² In addition to *Buletini*, the Petitioner cites *Muni v INS* 891 F Supp. 440 (N.D. Ill. 1995), *Racine v. INS* 995 U.S. Dist. LEXIS 4336, 1995 WL 153319 (N.D. Ill. Feb. 16, 1995), and *Gulen v. Chernoff* 1980 U.S. Dist. LEXIS 54607 (E.D. Pa. Jul 16, 2008), as having “held that having met the required evidentiary burden of proof, plaintiffs were eligible as aliens of extraordinary ability, absent any evidence to the contrary.” We note that each of these district court cases predates *Kazarian*. Further, as discussed, we are not bound to follow the published decisions of a district court.

³ The Director determined that the Petitioner’s evidence did not meet the membership criterion at 8 C.F.R. § 204.5(h)(3)(i)

evidence in the record, we find that the record supports a conclusion that she meets a third criterion, as discussed below.

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 asserts that she served in a leading role as the chief operating officer of [REDACTED] [REDACTED].⁴ The Director determined that she did not meet this criterion as the evidence submitted by Petitioner did not “contain detailed and probative information that specifically addresses how [her] role for [REDACTED] or former employer was leading or critical.” He further determined that “the evidence does not indicate that the organizations or establishments for which [she had] claimed to perform in leading or critical roles have a distinguished reputation.” We disagree and will withdraw the Director’s finding in this matter for the following reasons.

As it relates to a leading role, the evidence must establish that a petitioner is (or was) a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.⁵ The Petitioner submits evidence, such as her executed employment agreement listing appropriate matching duties and a letter from [REDACTED]’s chief executive officer confirming that she was a co-founder of that entity, establishing that she has performed in a leading role.⁶

Regarding [REDACTED]’s distinguished reputation,⁷ the record reflects that it is a company that has been marked by excellence as indicated by its selection as a 2017 [REDACTED] and as a company-in residence at the [REDACTED], a [REDACTED] device incubator. In a letter of recommendation in the record, [REDACTED] the vice president of venture investments at [REDACTED], describes the [REDACTED] award as “the [REDACTED] industry’s [REDACTED] [REDACTED] Competition for transformative [REDACTED].” She states, “[s]uch an award reflects on the importance of the business opportunity, but even more so on the quality of the founders.” The record further reflects that [REDACTED] was one of 19 companies selected globally in the 2017 [REDACTED] competition.

The record also demonstrates that [REDACTED]’s selection as a company-in-residence at [REDACTED] was based upon its reputation for excellence. Both [REDACTED]’s chief executive officer, and [REDACTED]

because, while evidence in the record established her membership in several associations, it did not demonstrate that these associations require outstanding achievements of their members, as judged by recognized national or international experts in her field. The Petitioner does not contest that determination on appeal, and so we consider her to have abandoned her claim that she meets this criterion. Accordingly, we will not address whether she does so here. However, we will address evidence submitted regarding this criterion in the final merits determination.

⁴ We note that the Petitioner also references her employment with [REDACTED]. As she has established that she meets this criterion, we will address evidence related to her role with [REDACTED] in the final merits determination.

⁵ 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* 10 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

⁶ We note that the record also contains a July 2018 document titled [REDACTED] [REDACTED] appointing the Petitioner as the entity’s [REDACTED] “to serve in such a capacity until her successor is duly elected and qualified or until her earlier resignation or removal.” However, this document is not executed, and it is unclear from the record whether she assumed this position.

⁷ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 11 (noting that Webster’s online dictionary defines *distinguished* as marked by eminence, distinction, or excellence.)

[redacted], its founder, confirm this in letters of recommendation in the record. [redacted] states that [redacted] was offered this position after being evaluated for and scoring highly on “the [redacted] benefit offered by [its] [redacted] the business potential of the company, and the excellence of the founding team.” [redacted] states that [redacted] “only admit[s] companies that we believe will be worth our time and capital” and that [redacted] “definitely belongs in that category,” having “already benefited from a number of highly desired grants.” Further, letters of recommendation in the record demonstrate that [redacted] enjoys a well-respected reputation; by extension [redacted]’s selection as a company-in-residence in a top-tier incubator reflects the entity’s distinguished reputation. For example, [redacted] describes [redacted] as a “top-tier company [redacted] in [redacted]” while [redacted] the director of the [redacted] describes it as “a highly respected incubator.” Accordingly, the record shows, by the preponderance of the evidence, that [redacted] holds a distinguished reputation. The Petitioner has established that she has performed in a leading role for an establishment having a distinguished reputation. Accordingly, we will withdraw the Director’s finding that she does not meet this criterion.

As we note above, the Petitioner asserts on appeal that she meets three additional criteria. However, as she has established that she already satisfies three criteria, we need not address whether she meets the others, but we will consider the evidence submitted as part of the final merits determination.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence we will evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim and that she is one of the small percentage at the very top of the field of endeavor, and that her 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 her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.⁸ In this matter, we determine that the Petitioner has not shown her eligibility.

The Petitioner holds a doctorate from the [redacted] College [redacted] and was a postdoctoral fellow at the [redacted] University [redacted]. She was previously the chief operating officer for [redacted] and has indicated that she intends to remain in the United States to continue to work as the company’s chief executive officer.

As mentioned above, the Petitioner judged others within her field, authored scholarly articles, and performed in a leading role. The record, however, does not demonstrate that her achievements reflect a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

⁸ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra* 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).

Relating to the Petitioner's service as a judge of the work of others, an evaluation of the significance of her experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22.⁹ The record reflects that she has reviewed scholarly articles appearing in the *Annals of Biomedical Engineering*, *The Journal of the Royal Society Interface*, and in *Medical Engineering & Physics*. Participating as an editor does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of her field. The Petitioner does not provide evidence demonstrating that she garnered wide attention from the field for her reviews.

Likewise, chairing conference sessions and reviewing presentations and applications in the field of endeavor does not automatically place one at the top of one's field. Here, the Petitioner provides correspondence thanking her for her work as a first-round reviewer for the 2017-2018 and 2018-2019 [redacted] Fellowships and evaluator of the [redacted] presentations for an undergraduate course in bioengineering at [redacted] University. She includes letters of recommendation and conference materials confirming that she served as co-chair of a session on biomedical engineering education at the 2017 [redacted] Annual Meeting, as well as correspondence showing that she was a reviewer for [redacted] candidates at the [redacted] and a recruitment interviewer for [redacted]. The Petitioner also submits correspondence confirming her roles as a lecturer at [redacted] University's [redacted] and as a graduate teaching assistant and student supervisor at [redacted] College [redacted].

While this evidence confirms her participation in each of these roles, it does not show how her work in these positions compares to others in her field or otherwise sets her apart from them. For example, in his letter of recommendation [redacted] notes that "her work has been recognized by the [redacted] [redacted], where [the Petitioner] has been asked to fulfill a co-chairing role at their 2017 Annual Meeting." In his recommendation letter, [redacted]'s director of professional development for northern [redacted] states "[n]ot only did [the Petitioner] help with our recruiting events, she also acted as an interviewer for first- and second-round interviews in our [redacted] office." The letters do not provide specific examples showing how the Petitioner's service in these roles sets her apart from others in the field or demonstrating how she has been recognized in the field for these achievements. Therefore, this evidence is insufficient to establish that her sustained national or international acclaim. The Petitioner does not provide additional documentation demonstrating that she has been recognized in the field for her experience reviewing candidates or chairing conference sessions. Without this evidence, she has not demonstrated that her service as a judge indicates that she is among "that small percentage who [has] risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2).

With respect to the Petitioner's authorship of scholarly articles, the record reflects that she published over 15 papers in conference proceedings and peer-reviewed journals and has delivered oral presentations at conferences. The citation history or other evidence of the influence of these articles can be an indicator to determine the impact and recognition that her work has had on the field and whether such influence has been sustained. For example, numerous independent citations for an article

⁹ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

authored by the Petitioner may provide solid evidence that her work has been recognized and that other researchers have been influenced by it. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122.

The Petitioner argues that her citation rate establishes her career of acclaimed work as it is comparable to or exceeds that of experts in the field of [redacted] innovation. She references a letter of recommendation in the record from [redacted] professor at the [redacted] [redacted] at the University of [redacted] in support of this assertion. In his correspondence, [redacted] lists two of the Petitioner's 2013 articles, and notes "[g]iven these contributions are relatively recent [the Petitioner] may not have garnered as many citations yet as other top scientists in the field, but this does not reflect the significance of the work described in these articles." This confirms the importance of the Petitioner's research. However, [redacted] provides no specific examples of nor explains how her research is important in the field.¹⁰ His letter is therefore insufficient to demonstrate that her work has widely impacted the field in a manner that indicates she has sustained national or international acclaim in the field of [redacted] innovation.

The record also includes Google Scholar documentation for three scientists, including [redacted] [redacted] whom she identifies in her response to the Director's request for evidence as the "top scientists in the field." She asserts that her "most cited article in the past 5 years has been cited more than the most cited recent work of other top scientist in the field."¹¹ For example, she indicates that [redacted]'s most-frequently cited article published in 2013 garnered 93 citations in contrast with the 126 citations received by her most-frequently cited 2013 article. This demonstrates that her work was recognized in the field at a level comparable to that of [redacted] in 2013.

However, the Petitioner should establish that her work has maintained that level of recognition in order to demonstrate that she has enjoyed "sustained" national or international acclaim.¹² Here the Google Scholar documentation referenced above indicates that in the years following 2013 the Petitioner's published articles were not cited at the same rate as those published by [redacted]. For example, in contrasting their most cited articles published in 2014, [redacted]'s research garnered 86 citations, while the Petitioner's research received six citations. The Petitioner does not provide evidence showing how this declining number of citations demonstrates that she has maintained the level of recognition for her work in a manner consistent with sustained national or international acclaim. See 8 C.F.R. § 204.5(h)(2).

As it relates to the Petitioner's service in a leading role, the record contains numerous letters of recommendation discussing her work for both [redacted] and [redacted].¹³ These letters

¹⁰ See USCIS Policy Memorandum PM 602-0005.1, *supra* at 8-9 (noting that letters that specifically articulate how the alien's contributions are of major significance to the field and its impact on subsequent work add value, while letters that lack specifics and simply use hyperbolic language do not, and are not considered to be probative evidence that may form the basis for meeting this criterion.)

¹¹ The Petitioner provides this information in the brief accompanying her response to the Director's request for evidence.

¹² See USCIS Policy Memorandum PM 602-0005.1, *supra* at 14 (stating that the adjudicator should bear in mind that acclaim must be maintained when determining whether the beneficiary has enjoyed "sustained" national or international acclaim, and noting that according to Black's Law Dictionary, 1585 (9th Ed, 2009), the definition of sustain is "(1) to support or maintain, especially over a long period of time; 6. To persist in making (an effort) over a long period of time.")

¹³ Although we discuss only a sampling of this correspondence, we have reviewed all of the letters in the record.

demonstrate the Petitioner's expertise in consulting and [redacted] innovation. The correspondence discussing her role at [redacted] identifies the prospective benefits of her service as its chief operating officer, rather than acclaim she has already received. [redacted], chief executive officer at [redacted] writes that his company's success is "unequivocally linked to [its] ability to hire [the Petitioner] as an executive within this new and growing company as she possesses the ideal combination of technological, clinical, and business knowledge." [redacted] does not point to any specific metric of success in his letter, nor does the Petitioner identify such successes and provide corroborative documentation. [redacted]'s letter references the Petitioner and [redacted] and notes, "we also believe that the team is truly exceptional in their creativity and inventiveness and has the right technical and business capabilities to be successful." Absent detailed examples of the Petitioner's achievements and the acclaim she has received for them, this evidence is insufficient to establish that the Petitioner is among "that small percentage who [has] risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2).

With regard to her employment at [redacted] correspondence in the record shows that she developed the business acumen as described in the documentation discussed above.¹⁴ For example, [redacted] notes that "[l]eadership evaluating [the Petitioner's] performance commented on her remarkable problem-solving skills," and that she "started leading projects as a [redacted] Manager, once again testifying to her rapid growth as a business professional." In the letter discussed above, [redacted] states that the Petitioner "has gained invaluable expertise in industry as a management consultant with [redacted] where she has helped define the marketing and sales strategies of the leading [redacted] and [redacted] companies of the world." [redacted] notes "[h]er time as a management consultant and [redacted] trained her well in market analysis and it shows in her knowledge of the dynamics that my company will face when entering the market with our [redacted]" While these letters establish the Petitioner's expertise as a management consultant for [redacted], they lack detailed descriptions of her contributions to the entity or specific examples of how the field of [redacted] technology has recognized her for them. The record lacks other evidence, such as news articles or other appropriate materials, demonstrating that the field of [redacted] technology has widely recognized her contributions to [redacted] in a manner reflective of sustained acclaim. Without additional evidence demonstrating that her work for [redacted] or [redacted] has been widely recognized by or has widely impacted her field of endeavor, the Petitioner has not shown that her achievements at these companies have received a level of acclaim reflective of one who is among "that small percentage who [has] risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2).

Beyond the three criteria that the Petitioner has satisfied, we consider additional documentation in the record in order to determine whether the totality of the evidence demonstrates eligibility. Here, for the reasons discussed below, these materials contribute to but do not establish an overall finding that she has sustained national or international acclaim and is among the small percentage at the top of her field.

¹⁴ The Petitioner also provides information about [redacted] and an organization chart which we have reviewed but do not discuss here as they are more relevant in a discussion of whether the Petitioner meets the requirements of the criterion itself. We note, however, that these documents do not demonstrate that the Petitioner has been recognized by others in the field.

With respect to her receipt of nationally or internationally recognized awards, the record reflects that the Petitioner received the 2016 [redacted] Award, that her master's thesis was awarded first prize by the [redacted]¹⁵ in 2010, and that she was awarded the best oral presentation at the [redacted] Symposium in 2012. Specifically, the record contains the Petitioner's 2016 [redacted] Award certificate and an article published on lunar.com, the award sponsor's website, identifying [redacted] and one other company as the award recipients. However, the Petitioner does not provide evidence showing that lunar.com is widely read or influential in her field such that its publication of an article about the award demonstrates that the field has recognized this achievement.

As it relates to the [redacted] award, the Petitioner submits an article discussing this award published at Forte.com, a site that "provides management advisory services in the field of industrial marketing." Similarly, she does not submit documentation establishing that an article about an award appearing on a website providing management advisory services is indicative of sustained national or international acclaim in the field of [redacted] technology.

Finally, regarding her 2012 best oral presentation award, the Petitioner provides an article about this award appearing in the journal *Het Ingenieursblad*. However, she submits no evidence of this publication's audience or influence within the field. Without evidence showing that this award has been widely recognized in her field, the Petitioner has not established that she has received the sustained national or international acclaim necessary for this highly restrictive classification. See section 203(b)(1)(A) of the Act. As an additional matter, the Petitioner notes that she also was a runner-up for several other prizes but does not demonstrate how being a runner-up is reflective of sustained national or international acclaim in her field.

The record further reflects that the Petitioner has received travel grants, research grants, and fellowships in her field. For example, it contains e-mail confirmations that she received travel grants various academic conferences and trips. The Petitioner also provides the application requirements for and funding confirmations of research grants, such as the [redacted] grant and the [redacted] pilot grant program, as well as press releases and articles about these grants. Finally, the record includes correspondence confirming the Petitioner status as a 2015-2017 honorary fellow of the [redacted] Foundation, and a 2016-2017 [redacted]

Fellow. This documentation establishes the Petitioner's receipt of these grants and fellowships. However, the Petitioner does not provide material demonstrating that she has been widely recognized in the field for these achievements. For example, the press releases about her grants are from the university's news service, but the Petitioner does not provide evidence establishing the influence of the university's news service in her field such that publication there reflects its recognition of her achievements. Without evidence demonstrating that she has been recognized in the field for her accomplishments, the record is insufficient to establish her sustained national or international acclaim.

The record also reflects that the Petitioner was granted the [redacted] (Fellowship) at the [redacted]. The Petitioner provides material about the [redacted] such as a printout of the [redacted] website; media articles about the [redacted] and other

¹⁵ The acronym refers to [redacted] name for this society.

[redacted] graduates, and generally about the importance of [redacted] centers. With respect to the Fellowship itself, the record contains a research article discussing predicted outcomes from participation in the Fellowship program and the aforementioned letters of recommendation. The research article focuses on predicted outcomes from the Fellowship program and does not differentiate the Petitioner from others or show that she has been recognized in the field for her participation.

The recommendation letters in the record establish the prestige of the Fellowship, but do not provide examples showing how the Petitioner has garnered acclaim for her receipt of it. For example, [redacted] describes the Fellowship as “the world-leading program in [redacted]” while [redacted] describes it as “an extremely selective program that we at [redacted] support and closely watch as it delivers the top [redacted] in today’s [redacted] industry.” The correspondence does not offer detailed examples showing how the Petitioner herself has been widely recognized in her field for receiving the Fellowship. The Petitioner does not provide additional evidence demonstrating that the field has recognized her accomplishment. Without this evidence, the record is insufficient to demonstrate that she has received the sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act.

As it relates to her memberships, the Petitioner provides documentation of her memberships in the [redacted], [redacted], the [redacted] Alumni Association, as well as her application to be a member of the City & Guilds College Association. However, she does not provide evidence that she has received recognition for her memberships. Without this evidence, the Petitioner has not demonstrated that being a member of these associations reflects a level of sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act.

Regarding published material, the Petitioner submits articles about her related to her work appearing online at [redacted] aboutforte.com, and mirror.co.uk, and online at [redacted] News, a [redacted] University news publication, as well as a ranking of colleges including [redacted] University. As it relates to [redacted] the Petitioner argues [redacted]’s “publications and newsletters, like its reputation, have not merely national but global reach.” She points to the college ranking list, noting that [redacted] is ranked fifth, in support of this assertion. However, the [redacted] News website on indicates that the web site’s intended audience is “the campus community, especially trustees, administrators, faculty and staff,” rather than a national or international audience.¹⁶ The Petitioner does not provide evidence showing how the publication of an article about her in a medium intended for a college community is indicative that she has sustained national or international acclaim in the field of medical technology innovation.

Regarding the articles appearing at [redacted] aboutforte.com, and mirror.co.uk, the Petitioner does not submit evidence establishing the influence of these websites within her field of endeavor. Without this evidence, the Petitioner has not shown that published material about her appearing on them establishes that her achievements have been recognized in her field of endeavor. We further note that the Petitioner does not submit evidence showing that the publication of four media

¹⁶ *See* More About [redacted] (last visited accessed July 20, 2020) and incorporated by reference into the record.

articles about her reflects a level of recognition consistent with being among “that small percentage who [has] risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

The remainder of the articles are either about an organization with which she was associated or about research that she coauthored, rather than about her. For example, the news articles [redacted] and [redacted] focus on the [redacted]. The Petitioner maintains that another article, [redacted] appearing in *De Standard* references a research paper that she coauthored, and thus is about her work. However, she is not mentioned in the article, which focuses on the research and quotes the research paper’s first author extensively. The Petitioner does not show how published material that is not about her demonstrates that she has received recognition from the field necessary for this highly restrictive classification. See section 203(b)(1)(A) of the Act.

As it relates to her original contributions, the Petitioner submits evidence that she developed a new treatment of the [redacted] as well as grants, letters of recommendation, and a provisional patent application pertaining to this treatment. The patent indicates the original nature of this treatment, while the letters of reference and the grants documentation demonstrate its continuing development and prospective benefit in the field.¹⁷ Referencing this original treatment, [redacted] states, “[The Petitioner’s] innovation for the treatment of the [redacted] is truly novel and will represent and important improvement for the almost 5% of the population who suffer from this condition.” [redacted] notes that [redacted] believes that she and [redacted] “have a truly novel technology that we believe can help those who suffer from [redacted]” This, along with the patent, confirms the original nature of the Petitioner’s treatment.

However, these letters are insufficient to establish that this contribution has already been widely implemented by and recognized in the field. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. See 8 C.F.R. § 103.2(b)(1), (12); see also *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971). In his letter, [redacted] notes that “the company [the Petitioner] recently co-founded to further develop this therapy was accepted in to the [redacted] .. and will undoubtedly go on to help millions of Americans suffering from this condition,” continuing “[the Petitioner’s] skillset will be instrumental in the company’s success.” Referencing this same company, [redacted] in his letter, notes “the intention of this business is to productize this system for regulatory approval and market launch in the next two years.” As we note above, the Petitioner must show that she has sustained national or international acclaim and that her achievements have been recognized in the field of expertise.¹⁸ Evidence demonstrating the prospective benefits of this innovation and awards for its continued development is not sufficient to establish that the Petitioner’s contribution has already been implemented. The Petitioner does not provide other evidence demonstrating that her original contributions have already garnered national or international acclaim. Without this evidence, she has

¹⁷ We have reviewed all of the letters of recommendation in the record, as well as the grants documentation, but discuss only a sampling here.

¹⁸ See USCIS Policy Memorandum PM 602-0005.1, *supra* at 14.

not demonstrated that her original contributions in the field of [redacted] innovation reflect a "career of acclaimed work in the field." See H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act.

The record also contains letters of recommendation and research articles reflecting that the Petitioner developed new mathematical models and metrics while completing her graduate studies. For example, in her letter of recommendation, [redacted] professor of [redacted] engineering at the University [redacted] references the Petitioner's master's thesis and notes "[i]n my lab, [the Petitioner] developed a mathematical model of [redacted] during [redacted] healing... work that has applications in [redacted] engineering and the [redacted] design of novel treatment strategies." As noted above, the record reflects that [redacted] awarded the Petitioner first place for this thesis. While this letter and award show that the Petitioner was recognized by these institutions for her work, the record lacks evidence showing that she received recognition in the field as a whole for her accomplishments. Therefore the evidence is insufficient to establish her sustained national or international acclaim.

As it relates to her doctoral research, [redacted], professor of [redacted] mechanics at [redacted] College [redacted] notes that the Petitioner "developed a new metric to capture and analyse the multidimensional character of disturbed flow." The record contains scholarly articles authored by the Petitioner related to this new metric, along with the previously discussed number of citations for each article.¹⁹ These citations establish that others have referenced the Petitioner's research in their own work. However, as noted above, the Petitioner does not provide evidence to demonstrate that these rates of citation are indicative of a high level of recognition in the field.

Finally, the record includes one article citing to the Petitioner's earlier research. However, it does not identify her or differentiate her work from that of others in a manner indicating that she has received sustained national or international acclaim for this research. The record therefore is insufficient to support a finding that the Petitioner's graduate research has been implemented or recognized in the field in a manner consistent with being among "that small percentage who [has] risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not established her extraordinary ability under section 203(b)(1)(A)(i) of the Act. As such, we need not determine whether she is coming to continue work in the area of extraordinary ability under section 203(b)(1)(a)(ii).

III. CONCLUSION

The Petitioner has not demonstrated her 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.

¹⁹ We have reviewed all of the articles in the record but discuss only a sampling here.