U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37223991

Date: FEB. 28, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a developer of semiconductors and related technology, seeks to permanently employ the Beneficiary as a senior staff engineer. The company requests his classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability" in the fields of electronics packaging and semiconductor thermal management. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Petitioners sponsoring beneficiaries for U.S. permanent residence in this category must demonstrate that the aliens have "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met two of ten initial evidentiary requirements – one less than needed for a final merits determination. On appeal, the company contends that, in finding no evidence that the Beneficiary's contributions in his field had "major significance," the Director misapplied law and facts.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we find insufficient evidence that the Beneficiary's contributions in his field had major significance. We will therefore dismiss the appeal.

I. LAW

A beneficiary qualifies as an alien with extraordinary ability if a petitioner demonstrates that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Through their work, substantially benefit the country prospectively.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a beneficiary received "a major, international recognized award," a petitioner must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, USCIS must then make a final merits determination. To merit approval, the record – as a whole – must establish a beneficiary's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Kazarian v. USCIS*, 593 F.3d 1115, 1120 (9th Cir. 2010); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Beneficiary and His Fields

The record shows that the Beneficiary, an Indian native and citizen, earned bachelor's and master's degrees in mechanical engineering. He worked five years for an Indian company as a mechanical design engineer before furthering his education in the United States.

The Beneficiary earned a doctoral degree in mechanical engineering from a U.S. university in May 2021. The Petitioner has since employed him in the United States as a packaging engineer. In this role, he participates in research projects and has developed a simulations analysis toolkit that has helped overcome delamination issues in the Petitioner's products by quantifying risk and implementing design changes. Also, to overcome thermal challenges in data centers, the Beneficiary has studied material compatibility of electronics packaging for immersion cooling technology. The Petitioner has offered him a permanent, full-time job in the United States.

The record does not indicate – nor does the Petitioner claim – the Beneficiary's receipt of a major internationally recognized award. The company therefore has to meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director's findings that the Petitioner submitted evidence of the Beneficiary's:

- Participation as a judge of others' work in his field; and
- Authorship of scholarly articles in his field.

See 8 C.F.R. § 204.5(h)(3)(iv), (vi).

We will now review the Director's finding that the Petitioner did not submit evidence that the Beneficiary has made contributions of major significance in his field. *See* 8 C.F.R. § 204.5(h)(3)(v).

[1] If an evidentiary criterion does not "readily apply" to a beneficiary's occupation, a petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

B. Original Contributions of Major Significance

This criterion requires "[e]vidence 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 company's evidence must objectively meet the parameters of this regulatory requirement. *See generally* 6 *USCIS Policy Manual* F.2(B).

When adjudicating this criterion, USCIS first determines whether a petitioner has demonstrated that a beneficiary made original contributions in their field. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5. If so, the Agency then determines whether those contributions have major significance in the field. *Id.* For a researcher like the Beneficiary, evidence of their work's significance may include "published research that has provoked widespread commentary on its importance from others working in the field, and documentation that [a beneficiary's research] has been highly cited relative to others' work in that field." *Id.*; *see also Visinscaia v. Beers*, 4 F.Supp.3d 126, 134 (D.D.C. 2013) (citation omitted) ("[T]he regulatory requirement that the petitioner demonstrate the 'major significance' of any original contributions means that the [alien]'s work must significantly affect [their] field of endeavor.")

The Petitioner submitted 13 letters from experts in the electronics packaging and semiconductor thermal management fields and proof of the Beneficiary's authorship or co-authorship of 14 published articles in the fields since 2019. The company also submitted evidence that he has reviewed peers' articles in the fields for professional journals that published them.

The Director found that the Beneficiary's articles reflect original contributions to his field. But the Director concluded that the evidence insufficiently demonstrates the purported major significance of his contributions.

1. The Number of Citations

A printout from a scholarly literature website indicates that, at the time of the petition's filing, the Beneficiary's published articles had generated 170 citations. *See* 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to demonstrate eligibility "at the time of filing the benefit request"). The Director found that the website showed that others in the electronic packaging field had each written more than 450 published articles generating more than 11,000 citations.[2] The Director concluded that, while expert letters favorably discuss the Beneficiary's citations, the Petitioner has not demonstrated that they reflect a high amount relative to others in the field.

On appeal, the Petitioner submits evidence of other researchers who it says have had major significance on the field yet have generated fewer citations than the Beneficiary. Before the decision's issuance, however, the Director sent a request for evidence (RFE) inviting the company to submit "objective evidence that the beneficiary's publications have garnered a significant number of citations." The company has not claimed or demonstrated that its additional evidence was unavailable at the time of the RFE's issuance. We therefore decline to consider the new evidence on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring the submission of all requested evidence together at one time);

[2] Also, an expert who provided a letter in support of this petition stated that he has authored more than 300 published articles in the field.

Matter of Furtado, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal where a petitioner received notice of the required evidence and a reasonable opportunity to provide it before the filing's denial).

Thus, as the Director found, the Petitioner's evidence does not show that the Beneficiary is highly cited relative to other researchers in his field. Based on his number of citations, the Petitioner therefore has not submitted evidence that his contributions had major significance in his field.

2. The Expert Opinion Letters

We agree with the Petitioner that the Director undervalued expert opinion letters that the company submitted. In her decision, the Director discounted the letters because the Beneficiary solicited them in support of this petition. The Director stated that the Beneficiary's "original contributions in the field must be demonstrated by preexisting, independent, and corroborating evidence."

As the Petitioner argues, however, there is no blanket rule that solicited expert letters warrant less evidentiary weight than preexisting evidence. USCIS policy states:

> Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance.

6 *USCIS Policy Manual* F.2(B)(1), Criterion 5; *see also Rubin v. Miller*, 478 F.Supp.3d 499, 504 (S.D.N.Y. 2020) ("[T]he [USCIS] Decision Letter does not reasonably explain why evidence in existence prior to the preparation of the Petition carries more weight than new materials, specifically opinion letters.")

But, even affording the expert opinion letters the full evidentiary weight due them, they do not sufficiently establish the claimed major significance of the Beneficiary's contributions in the field. The letters discuss his contributions. But the letters do not provide "specific information relating to the[ir] impact . . . on the field as a whole." *Visinscaia*, 4 F.Supp.3d at 134; *see generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5 (requiring letters to "specifically describe . . . [contributions'] significance to the field").

For example, a letter from a professor emerita of technology and economics at a Hungarian university touts the importance of the Beneficiary's research on thermal management of electronics, stating: "This area has been crucial for reviewing and studying electronics for lifetime reliability and energy consumption for critical datacenters that feed next-generation computerized and AI [artificial intelligence] electrical engineering research and technologies." Her letter also states: "[The Beneficiary]'s work to investigate the impact of energy immersion cooling is required for advancing the benefits of datacenters that are the repositories for AI technologies." But the letter does not explain how the Beneficiary's specific research has advanced these fields, whether any electronic devices or data centers have successfully implemented his ideas, or whether his work unlocked doors to other important applications or studies in the fields. *See Visinscaia*, 4 F.Supp.3d at 134 (upholding USCIS'

rejection of letters lacking "specific evidence that [the alien]'s techniques were being used by others in the field").

Similarly, a fellow emeritus of a U.S. technology company praises the Beneficiary's research on the impact of aging mechanical properties of thermally conductive gap fillers. His letter states: "[The Beneficiary]'s findings help in predicting the lifespan and performance of these materials, which is vital for maintaining the integrity and efficiency of electronic devices over time." The letter also states that "[h]is work has helped to improve electronics packaging and semiconductor thermal management." But, like the previous letter, this letter does not explain how the Beneficiary's specific research has advanced the field or provide examples of applications that have successfully adopted his ideas.

Some of the experts also praise the Beneficiary's review of others' work in the field. For example, the professor emerita from the Hungarian university stated: "[The Beneficiary]'s involvements in these professional activities have advanced the electronics packaging and thermal management of the electronics research community worldwide." But these letters also do not explain how the Beneficiary's specific work has advanced the fields.

To the extent the Petitioner contends that the Beneficiary has made original contributions of major significance in the field through his employment with the company, it has not shown the significance of this work beyond the company and its customers. *See, e.g, Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *4 (N.D. Tex. Oct. 19, 2023) (citations omitted) ("Courts have routinely affirmed agency decisions that held § 204.5(h)(3)(v) 'requires substantial influence beyond one's employers, clients, or customers.'")

III. CONCLUSION

The Petitioner has not submitted evidence that the Beneficiary's contributions had major significance in his field. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.