

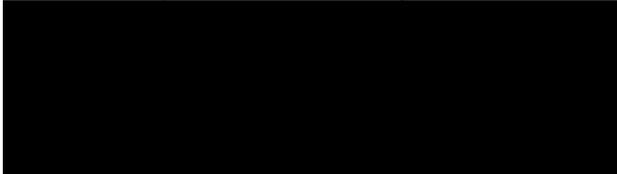


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U.S. Department of Justice
Immigration and Naturalization Service

[Faded stamp: RECEIVED JUN 28 2002]

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



02 JUN 2002

File: EAC 00 027 51755 Office: Vermont Service Center

Date:

IN RE: Petitioner:
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in business. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if

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(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 to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is 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). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

The petitioner is a financial services company that seeks to employ the beneficiary as a program manager for Learning Technologies. All arguments on the petitioner's behalf are made by the petitioner's corporate counsel, [REDACTED] observes that the beneficiary holds an O-1 nonimmigrant visa. Mr. Munro states, "the criteria for classification as an alien of extraordinary ability . . . are virtually identical to the criteria for classification as an O-1 alien." With respect to the beneficiary's achievements, [REDACTED] states "[the beneficiary] has gained sustained national and international acclaim through her achievements in the field of learning technologies."

The regulation at 8 C.F.R. 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence which [REDACTED] claims, meets the following criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

[REDACTED] states:

During her graduate studies at Penn State, [the beneficiary] received two awards in international competitions: the [REDACTED] Graduate Fellowship in Education, awarded to the outstanding foreign graduate student; and the AECT DISC Internship award, awarded to a future leader of the field. These independent assessments document that [the beneficiary] has established herself as an internationally recognized leader for her outstanding experiences and achievements in the field of learning technologies.

Both of the above awards are for graduate students rather than established business figures. Graduate study is not a field of endeavor, and the awards do not place the beneficiary at the top of the entire field of learning technologies.

Penn State documents in the record indicate that the [REDACTED] Graduate Fellowship is open to "[o]utstanding full-time GRAD students with financial need committed to college teaching and research, whose ethnic, cultural, and/or national backgrounds contribute to the diversity of the student body." Thus, many Penn State graduate students are disqualified by factors (such as ethnicity and economic status) that have nothing to do with their ability. An award that is available only to certain segments of the graduate student body at one university is not national or international in scope.

Documentation regarding the AECT DISC internship shows that the petitioner received the internship during her second year of doctoral studies, and that "interns are selected on the basis of scholarship, leadership, and personal recommendations through a highly competitive process."

This internship is more national in character than the beneficiary's Penn State scholarship, but it remains that an internship, by its fundamental nature, is a training-type position rather than a position that would be held by the most experienced and established figures in the petitioner's field. It is also far from clear that an internship represents a prize or award, rather than a temporary job for which competition is intense.

Despite [REDACTED] contention that the above honors "document that [the beneficiary] has established herself as an internationally recognized leader for her outstanding experiences and achievements in the field of learning technologies," there is no evidence that either of the honors is "international" in scope, or that the petitioner has won any comparable recognition not as a leading graduate student, but as a leading business figure.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

[REDACTED] states:

In light of [the beneficiary's] extraordinary accomplishments and international recognition, she has been afforded membership in the [REDACTED] the Technologies and Learning ThinkTank. She is also a member of the American Society for Training & Development and the International Society for Performance Improvement. While she was a graduate student at Penn State, [the beneficiary] also served as Membership Chair, CPAECT. . . .

In light of [the beneficiary's] excellent background and recognition as an expert in instructional design of learning software, she was invited to serve on Eloquent's Customer Advisory Board. Eloquent is a software company that produces multimedia-based training events for corporate customers delivered through the company's Intranet and CD-ROM. [The beneficiary] was active in the Council's November 1998 session and has offered excellent suggestions for product improvements in the area of learning.

For several of the above-named entities, the petitioner has submitted background information about the associations but no actual evidence that the beneficiary is a member. The background evidence, itself, fails to establish that any of the associations require outstanding achievement as judged by nationally or internationally recognized experts. The Alliance for Learning Technologies – Financial Services describes itself as “a self-directed and self-selected group of learning technology and performance support executives and senior professionals who have a mutual interest in sharing non-proprietary information in order to benefit the organizations they represent and to enhance their personal professional development.” Alliance documents do not list any specific membership requirements apart from submission of an annual fee in the amount of \$1,500. The membership belongs to companies rather than individuals; in essence, the beneficiary represents the petitioner within the alliance, rather than holding a personal membership in her own right.

The Masie Center describes itself as “an international thinktank . . . dedicated to exploring the intersection of learning and technology.” The record contains nothing to show the center's membership requirements.

The American Society for Training and Development “represents more than 70,000 members.” It is far from clear that an organization of this size could represent only the elite, selected by nationally or internationally recognized experts. The petitioner has submitted excerpts printed from the society's web site. There is a link to “Membership Information,” but the petitioner has not submitted any membership information. The 10,000-member International Society for Performance Improvement indicates that its “membership is comprised of those interested in improving human performance in the workplace.” An association that is open to anyone who

pays a fee, or anyone who works in a given field, cannot satisfy the plain wording of the regulatory criterion.

█ notes the beneficiary's position as membership chair for CPAECT, but does not state the full name of the organization, which is the Central Pennsylvania Association of Educational Communications and Technology. This association, by its very name, is clearly regional rather than national or international in scope.

█ does not explain how Eloquent's Customer Advisory Board amounts to an association in the field. Documents in the record indicate that the purpose of the board is "to recommend to Eloquent product improvement areas that would reflect the customers' needs, as well as share best practices with other customers." The board appears to be not an independent association established for the benefit of the field, but an extension of a single software company set up exclusively for the benefit of its customers.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

█ states that the beneficiary's "development of instructional and learning systems has been of tremendous value for [the petitioner's parent company] and the other U.S. companies that have employed her in the integration of computer solutions to improve employee training and performance.

The petitioner submits several witness letters. █ president of Bailey Interactive, Inc., states:

While she was a student, [the beneficiary] was a lead instructional designer on a team that won an honorable and very challenging annual Request for Proposal (RFP) contest organized by the Institute for Interactive Technologies' Corporate Advisory Council (CAC). The CAC was represented by business technology managers from major United States companies. The purpose of organizing the RFP contest was to challenge students with a real business problem and have them present its best technology-based solution. The members of the student team that won the contest were recognized and honored by almost immediate job interviews by CAC members. . . . [The beneficiary's] talent and hard work in instructional technologies was acknowledged when her design solution presented at the RFP session received recognition as the best by CAC members.

█ does not offer any details about the actual project, nor does he establish that the beneficiary's work has been recognized as having major significance to the field in general, rather than in the limited context of a student project.

█ associate professor at Brigham Young University, who worked with the beneficiary at the U.S. Air Force Academy, states:

[The beneficiary] served as a Language and Technology consultant, assisting the Department of Foreign Languages at the United States Air Force Academy in

developing interactive multimedia modules to teach Russian to our cadets at the United States Air Force Academy (USAFA). The project was a major part of our effort to add Russian to the existing series of multimedia-based foreign language programs that USAFA had already developed for teaching German, French, and Spanish. The program represented an innovative, cutting-edge, technology-based learning approach to teaching foreign languages, specifically reading, writing, and listening comprehension skills. . . .

[The beneficiary's] major contribution to this project was in the area of *development* of the interactive program. [The beneficiary] worked on the general integration and development of important module elements into a harmonious program. Specifically, [the beneficiary] was responsible for identifying the appropriate video segments from movies, translating them into English, providing an explanation of the grammatical structure of the translated sentences, and creating an interactive dictionary. . . .

With [the beneficiary's] major contribution, USAFA developed more than 200 hours of interactive multimedia instruction in Russian which were used by the USAFA cadets as well as other government language students. . . .

At [a 1993] conference, [the beneficiary] made a presentation on the use of Electronic Performance Support Systems (EPSS) for foreign language instruction. . . . Although some major US corporations at that time had already started using EPSSs to meet their training requirements and to improve the performance of their employees, the applications of the EPSS concept to the foreign language instruction field was an innovative idea, making her presentation of extreme benefit to the international conference audience that heard her speak.

██████████ associate professor at Penn State University, states that the beneficiary's design for an EPSS for AT&T "was an innovative approach that integrated effective principles of case-based, on-the-job learning with the multimedia technologies that provided the learning architecture and technical infrastructure for its implementation. . . . This program provided AT&T professionals with more effective and efficient ways of developing the necessary skills."

██████████ vice president of GURU, Inc., had previously worked with the beneficiary at Aetna, Inc. He states that the beneficiary "worked for me on a number of mission-critical projects, through a period of Aetna's transition from legacy computer systems to a customer-focused, client-server environment. . . . Aetna enjoyed great success with all of these systems." ██████████ specifies that the beneficiary "made significant contributions to the development of an integrated call center / customer service center for Aetna's retirement services. She conducted detailed analyses, contextual interviews, and produced outstanding design documents for the Customer Service Workstation interface." ██████████ states the beneficiary's "work to be top-rate and unique."

██████████ founder and director of Northwestern University's Institute for the Learning Sciences, states:

I had the opportunity to work with [the beneficiary] on two [of the petitioner's] technology projects. Her experience has been central on a number of occasions, leading those . . . who were charged with building training systems using the newest technology available. . . . Whether the learning experience will be effective depends entirely on the system's design solution. [The beneficiary's] expertise in these new approaches, and particularly her exceptional ability in the design of multimedia systems, has been key to their deployment at [the petitioning company].

The petitioner submits copies of [redacted] 20-page resume and several articles either by or about [redacted] including a lengthy article about him, entitled [redacted] that appeared in Chicago magazine in 1998. These materials establish [redacted] credentials, but they also appear to indicate that Prof. Schank is considerably more well known than the beneficiary is, and therefore the very top of the field is considerably above the level that the beneficiary has reached.

[redacted] manager of the petitioner's Center for Learning and Organizational Excellence ("CLOE"), describes the beneficiary's work with the petitioner's affiliated companies and, later, with the petitioning company itself:

During her stay with [an affiliated plastics company, the beneficiary's] main focus and responsibilities were in technology-enabling the delivery of Six Sigma Quality training. Six Sigma is a major, company-wide initiative . . . [that] required an enormous training effort. . . . Having understood [the program's] challenges through needs assessment, [the beneficiary] recommended development of a system that would help to resolve them. This system would guide company's employees step-by-step on their projects, mentor them through difficult decisions and provide access to cases and examples of work that had already been done by other employees. . . . After the review at the corporate level, the "Quality Coach," an electronic performance support system was approved as a corporate project for all [the parent] company's businesses. . . .

Quality Coach was a very important milestone in the company's training efforts. This system represents a new type of intelligent performance support technology that is rarely built in the corporate environment. The project brought new ideas and approaches of utilizing performance support technologies and case-based learning to implement the company's most important business initiative. These ideas helped to shift the mentality of the company's business and training leaders towards innovative technology approaches to distribute knowledge and skills globally. [The beneficiary] played a very significant role in it.

After the project stabilized, [the beneficiary] transitioned to her responsibilities as a Program Manager for Learning Technologies at [the petitioning company]. . . . One project was the pilot of Picture Tel videoconferencing technologies to deliver Six Sigma Quality training for sales people company-wide. Learning sessions were broadcast to six sites across the country from the corporate headquarters in Stamford, CT delivering training to more than 100 trainees at the same time. . . . This new and innovative way of distributing learning through the digital video

channels also saved the company thousands of dollars in employee travel and living expenses. . . .

Developing an interactive technology-based Design For Six Sigma learning product was a another project that [the beneficiary] managed. . . . The solution was an interactive technology-based Design For Six Sigma CD-ROM that . . . substituted for five days of classroom instruction, provided more in-depth and advanced opportunities for developing knowledge and skills, and enabled trainees to learn DFSS materials at their own pace and sequence, taking advantage of effective learning from multiple media.

[REDACTED] now principal of Performance Vision, was head of learning technologies for Aetna, and supervised the beneficiary at that company. [REDACTED] asserts that the beneficiary "contributed to several key technology-based learning initiatives" and made presentations "at two major European conferences."

The witnesses have described, at length, the beneficiary's work in her field, but they have not explained how her work has been recognized as significant outside of the clients that have commissioned that work. Every employer benefits from proper training of its employees; the beneficiary's competence at this task does not inherently assume major significance in the field at a level establishing national or international acclaim.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner submits copies of three articles co-written by the beneficiary, and a copy of a letter from the editors of a journal indicating that a fourth article is under consideration. This letter does not identify the beneficiary as a co-author; the phrase "Alien is Co-author" has been added by hand to the photocopy of the letter, and in any event an article that had not yet been published as of the filing date cannot satisfy the regulatory criterion; an unpublished article is not in any publication or major media.

We note that one of the petitioner's witnesses, [REDACTED] has written 19 books and 107 articles for journals and books. The petitioner has not shown that her three articles have earned her a standing in the field that is comparable to that of Prof. Schank, or that the very act of publishing reflects or establishes sustained acclaim, such that only those at the very top of the field publish at all.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

Several high-ranking officials and executives of the petitioning corporation attest that the beneficiary plays a leading or critical role for her employer, which in turn is a major national corporation. The petitioner thus appears to have satisfied this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

states that the beneficiary's "current base compensation is \$85,000," compared with the average compensation of \$57,700 for "training professionals." The source for the claimed average is an article from Training magazine, which indicates "the average TRAINING subscriber's salary is \$57,711." Absent evidence that Training's subscriber base consists of every "training professional," and no one else, we cannot conclude that the figure cited is highly reliable. Also, the beneficiary appears to work in a managerial capacity; an average that includes both managers and non-managers will be lower than a managers-only average. It is not indicative of national acclaim for a given manager to earn more than her subordinates. The petitioner has not shown that the beneficiary is among the most highly paid individuals in her field at a national level, including managerial-level professionals at major corporations.

The director instructed the petitioner to submit additional evidence, stating that the initial submission did not establish sustained acclaim or extraordinary ability. In response, states that the initial submission was sufficient to establish eligibility, and that the beneficiary's "achievements have been well recognized as extraordinary among other experts in the field." The experts who wrote the above letters on the beneficiary's behalf have all worked directly with the beneficiary, often as her supervisor, and therefore their statements do not establish that the beneficiary has earned acclaim beyond the companies where she has worked.

The petitioner submits additional evidence in response to the notice. Much of this evidence concerns developments that took place after the petition's filing date, and these developments cannot retroactively establish eligibility. See Matter of Katigbak, 14 I&N Dec. 45 (Reg. Comm. 1971), in which the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. Much of the new evidence is of a similar caliber to the evidence submitted initially, such as documentation pertaining to the beneficiary's service on another company's advisory board.

states that the beneficiary received an award from the petitioning company shortly after the filing of the petition. This award is not national or international; it is available only to employees of one corporation. Even though that corporation is a very large one, it remains that other individuals in the beneficiary's field, however acclaimed or talented, would be excluded from consideration not on the basis of their achievements but because they do not work for the petitioner. Also, it is far from clear that the petitioner can satisfy the criterion pertaining to prizes and awards by giving one of its own prizes to the beneficiary. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to Service requirements. See Matter of Izumii, I.D. 3360 (Assoc. Comm., Examinations, July 13, 1998).

The petitioner submits a number of letters from its officials and executives, discussing the importance of the beneficiary's work to their corporation. While these letters support the claim that the beneficiary plays a leading or critical role, they do not establish that the beneficiary enjoys national or international acclaim outside of the petitioning company. It cannot suffice for the petitioner's employees to assert that the beneficiary is nationally or internationally acclaimed. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972), in which the Service held that simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings.

The only new witness not employed by the petitioner is [REDACTED] now an assistant professor at George Mason University, who was a graduate student at Penn State at the same time the beneficiary was. This letter, like others before it, cannot represent first-hand evidence that the beneficiary is well-known even to those who are not her employers, professors, or classmates.

[REDACTED] states that the beneficiary's compensation has increased from \$85,000 to \$90,000 per year. For reasons already explained, this change cannot retroactively show that the beneficiary was eligible as of the filing date. The petitioner submits an "individual position profile" from the Economic Research Institute, including the following table of "Estimated Median Annual Base Salaries" for training managers in the Stamford, Connecticut, area:

| Years Of Experience | 10 th Percentile | Time Series Median | 90 th Percentile |
|---------------------|-----------------------------|--------------------|-----------------------------|
| 7 | 60,062 | 70,519 | 89,806 |
| 5 | 56,810 | 66,687 | 84,945 |
| 3 | 53,558 | 62,853 | 80,081 |

These figures are not national, but apply specifically to the vicinity of Stamford, Connecticut. If we assume them to be representative of national figures, we note that the above figures establish that \$57,711, which the petitioner had claimed as the "average," is on the low end of the above table. The beneficiary's salary of \$85,000 at the time of filing is higher on the scale, but the table also shows that salaries increase significantly with experience. The record shows that some professionals in the beneficiary's field have 30 or more years of experience, but the table stops at seven years. Because training managers with decades of experience work in the same field as those with only a few years of experience, the petitioner cannot artificially inflate the beneficiary's salary percentile by excluding those professionals with the greatest level of experience.

A second table shows lower figures for "education managers," but this table appears to be inapplicable. The duties described for "educational managers" indicate that such an individual "plans, develops, and administers educational program of museum, zoo, or similar institution." The petitioner in this case is not at all like a museum or zoo; such entities exist primarily for providing general educational information to the general public. The beneficiary, on the other hand, provides in-depth, specialized training to employees of the petitioner.

The petitioner submits a third table, pertaining to the compensation of "employee training specialist[s]." While this table offers national figures as well as regional ones, several of the terms on the table are abbreviations with no key, and we cannot determine whether this table includes only managerial-level employees, or whether the averages are brought down by including lower-level employees.

Among the other submissions in response to the director's request are additional articles from Training, showing that top figures in the field are the subject of attention in the trade press. There is no indication that the beneficiary herself has ever been the subject of articles in Training or any other trade publication, as one might reasonably expect if the beneficiary is among the

best, and best-known, figures in a field that obviously devotes press coverage to renowned experts.

The director denied the petition, stating that the evidence submitted fails to meet the regulatory requirements and generally does not establish that the beneficiary is widely known not only to her mentors and employers, but to the field as a whole. The director specifically found that the petitioner has not shown that the beneficiary's achievements have had major national or international significance throughout the field, and that the petitioner has not shown that the associations to which the beneficiary belongs require outstanding achievement as a condition of admission.

██████████ on appeal, states that the director "disregards the alien's close association with the highest ranking learning technologies expert within her unique field of specialty, and accordingly did not accord this letter writer the considerable weight merited by his high standing within the field." ██████████ refers to ██████████ whom he elsewhere deems to be "the premier learning expert." The fact that the beneficiary has obtained a letter from ██████████ not, in itself, dispositive; we must consider the content and context of the letter. ██████████ indisputably high ranking in the field actually works against the petitioner to a certain degree, as it demonstrates beyond doubt that an individual working in the beneficiary's field is capable of producing a great volume of significant, influential works, while attracting widespread notice not only from one company or one university, but from the entire field. Having shown that ██████████ ranks so highly in his field, the petitioner cannot simply show that ██████████ is familiar with the beneficiary's work, or that she has a "close association" with him; the petitioner must show that the beneficiary herself has attained similar heights in her own career. ██████████ does not appear to regard the beneficiary as his equal or near-equal, and there is no evidence that others in the field, who have bestowed such a variety and quantity of recognition on ██████████ have done anything approaching that level of magnitude on the beneficiary's behalf. The record does not show that the beneficiary is responsible for the most influential or wide-ranging innovations in her field. Simply listing the beneficiary's projects, and submitting letters from those who have directly benefited from them, does not show that the beneficiary's work is among the most important in the field of employee training.

██████████ protests the director's use of the phrase "among the world's most accomplished researchers in the field." It is true that the statute allows for national as well as international acclaim, but this distinction does not appear to have resulted in the denial of a petition that the director would otherwise have approved. It remains that the petitioner itself has repeatedly claimed that the beneficiary is internationally recognized, which is tantamount to a claim that the beneficiary is "among the world's most accomplished" in her area of endeavor.

██████████ repeats the assertion that the beneficiary "received two awards as a graduate student, both in international competitions." The petitioner has submitted no evidence to show that either of these awards involved international competitions. With regard to the Penn State award, available only to students at one single university, competition for that award does not become "international" simply because foreign students study at Penn State.

██████████ defends the petitioner's claim that the beneficiary is a member of qualifying associations in the field, but offers no response at all to the director's valid observation that the

petitioner has not shown that any of these associations require outstanding achievements of their members.

██████████ asserts that the director should have given consideration to "the uniqueness of the field of endeavor." The regulations, and the statute from which the regulations derive, require evidence of sustained national or international acclaim. The regulation, deriving language from the legislative history of the statute, states that an alien must have reached "the very top of the field of endeavor." The evidence submitted by the petitioner simply does not meet this standard.

The petitioner has shown that those who have employed the beneficiary greatly value her services, and that those who have trained or supervised the beneficiary believe her to be highly skilled at her work, but the statute and regulations demand more than the praise of close associates. Contrary to ██████████'s apparent argument, the acclaim enjoyed by those associates does not necessarily translate by association into acclaim for the beneficiary herself. The evidence in the record indicates that many of the ten regulatory criteria can readily be satisfied by top figures in the field (such as Prof. Schank); therefore, we cannot conclude that the beneficiary's failure or inability to meet those same criteria is a result of the unique nature of her field of endeavor. The record of proceeding, in this respect, is as significant for what it omits as for what it includes.

██████████ notes the prior approval of an O-1 nonimmigrant visa on the beneficiary's behalf, and cites "a recent internal memorandum of the INS California Service Center." Even if this proceeding were under the jurisdiction of the California Service Center, which it is not, this office is not in possession of the documentation which led to the approval of the O-1 visa and we therefore cannot determine whether we would have concurred with the approval of that petition. There is no statute, regulation, or case law that requires the approval of an immigrant visa petition under section 203(b)(1)(A) when the alien beneficiary already holds an O-1 visa.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the beneficiary has distinguished herself as a training manager to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the beneficiary's achievements set her significantly above almost all others in her field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.