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U.S. Citizenship
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Services

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[REDACTED]

FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: JAN 30 2009
LIN 06 191 52234

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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 you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification 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 that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. The director also found that the petitioner had not established she is one of that small percentage who have risen to the very top of her field of endeavor.

On appeal, the petitioner argues that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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 --

(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.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). 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 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 she has sustained national or international acclaim at the very top level.

This petition, filed on June 16, 2006, seeks to classify the petitioner as an alien with extraordinary ability as a strategic business developer. 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, internationally 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. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "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 petitioner has submitted evidence pertaining to the following criteria.¹

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

The petitioner submitted evidence showing that the "Sustainable Business Excellence" process she developed for the Howard County Economic Development Authority (HCEDA) received a 2004 Incubator Innovation Award from the National Business Incubation Association (NBIA). The petitioner's evidence included an October 6, 2005 letter from [REDACTED] President and Chief Executive Officer, NBIA, stating:

The National Business Incubation Association is the world's largest organization advancing business incubation as an entrepreneurship support tool. We provide professionals with the information, education, and networking resources necessary to bring excellence to the process of assisting early-stage companies.

* * *

To provide further background on our association, I would just add that NBIA has nearly 1,600 members; there are 1,050 incubators in the United States and about 5,000 in the world.

The petitioner submitted an April 27, 2004 article posted on the N24 (Germany) News Channel's internet site discussing HCEDA's receipt of the Incubator Innovation Award, but the English language translation accompanying the online article was not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3). Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. Nevertheless, there is no evidence showing that N24's online edition had significant national or international readership. The

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

petitioner also submitted an article posted in the “Biz Roundup” section of *The Business Monthly’s* internet site discussing the award. We note that the content of the preceding two articles mirrors a press release prepared by the HCEDA which was also submitted by the petitioner. In response to the director’s request for evidence, the petitioner submitted information from *The Business Monthly’s* internet site stating that it covers business news in “Howard County, BWI Business District, and Northern Anne Arundel County” in Maryland. The discussion of the petitioner’s award in this local publication is not evidence of national recognition or national acclaim.

The petitioner’s response to the director’s request for evidence included an April 18, 2007 letter from [REDACTED] stating:

NBIA was founded in 1985 and is private, nonprofit 501(c)(3) membership organization based in Athens, Ohio. Our mission is to provide training and a clearinghouse for information on incubator management and development issues and tools for assisting start-up and fledgling firms.

Our members include more than 1,700 individuals in 49 nations.

* * *

Since 1991, NBIA has recognized extraordinary successes and innovations in our industry at our annual international Conference on Business and Incubation. During the past 17 years we have given more than 100 awards to those who stand out in five categories.

* * *

The Innovation Award has great significance in the industry. It is indicative of the latest trends and honors replicable models other incubator managers may wish to incorporate in their programs. The Innovation Award has been awarded 12 times since it was initiated in 1996. To compete for this award the innovative program must benefit clients by either going beyond normal incubation services or introducing a creative way to implement an “old” idea. The incubation program must have been successfully implemented in the field for at least six months at the time of the application, and judging panels consider criteria including presentation, creativity, program impact, and financial management in making the award.

The petitioner also submitted excerpts from the “2004 Incubation Awards Nomination Materials” booklet. A document in this booklet entitled “Incubator Innovation Award” states:

NBIA’s Incubator Innovation Award recognizes incubators that have developed and implemented innovative activities that help them better achieve their missions. By showcasing these innovations, this award moves the entire industry forward as other incubators incorporate their own adaptations of the innovation. There are no category breakdowns for the innovation award; any incubator is likely to have honed an innovative process or activity that makes the incubation program more effective.

Eligible incubators:

- ◆ are NBIA members. (This award recognizes an incubator's innovation. Client and graduate companies are not eligible.)
- ◆ have implemented an innovative project, program or activity of short or long duration.
- ◆ have implemented the innovation for at least six months at the time of the nomination, or in case of short-term projects, have completed the innovative project as of the entry deadline.

The director concluded that the preceding award was not indicative of sustained national or international acclaim in the petitioner's field of endeavor. The director stated:

Most notably, information from the NBIA regarding the 2004 Incubation Awards indicates eligible incubators are NBIA members. Therefore, it appears that this competition is limited in scope as only NBIA members may compete. The petitioner has not demonstrated the actual significance of this relatively new award to the field and any acclaim that one may receive as a result.

On appeal, the petitioner argues that "the assumption of USCIS about the membership exclusivity" of the Incubator Innovation Award is erroneous. The petitioner submits a May 23, 2007 e-mail reply from [REDACTED] to her stating: "[The petitioner], with regards to your question, we also welcome submissions of non-members as long as they qualify." [REDACTED] response does not include the petitioner's original message or specify the question to which she was responding. Even if we were to conclude that [REDACTED] was addressing a question relating to who may apply for the Incubator Innovation Award, her response contradicts the "2004 Incubation Awards Nomination Materials" booklet stating that eligible incubators "are NBIA members."² It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

With regard to the information provided in the "2004 Incubation Awards Nomination Materials" booklet, we note that individuals and companies competing for the Incubator Innovation Award self-nominate. Further, the petitioner has not submitted evidence showing that her award commanded a significant level of recognition beyond the context of the NBIA conference where it was presented. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's award be nationally or internationally *recognized* and it is her burden to establish every element of this criterion. For example, there is no evidence demonstrating that annual recipients of the Incubator Innovation Award were announced in national business media or in some other manner consistent with national or international acclaim. In this case, the petitioner has not established that her award constitutes a nationally or internationally recognized prize or award for excellence in her field of endeavor.

² The record does not include evidence showing that non-members of the NBIA have received Incubator Innovation Awards.

In light of the above, the petitioner has established that she meets this criterion.

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.

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted an October 18, 2005 letter from [REDACTED], Director of Programming, [REDACTED], stating that the petitioner is "a member in good standing." [REDACTED] further states:

SPRINGBOARD promotes women's entrepreneurial development through alliances, partnerships and programming. This includes targeted education and coaching, strategic connections with investors, community building efforts and venture capital forums that showcase women entrepreneurs. Our web-based Learning Center, local Workshops and Seminars, and Next Wave Alumnae Initiative service a wide audience of women leading high growth businesses.

Our program involves a rigorous screening of applicants by members of the business, educational and investment communities, a one-day orientation bootcamp, and a six-week, individualized coaching program. Less than [sic] 10% of the women who apply are selected.

* * *

Who is eligible to apply for Springboard?

- Woman in a senior position on the management team (C-level, founder, president, vice president, etc) holding a significant equity stake as compared with others on the management team.
- Women leading emerging growth companies seeking early stage institutional equity investment.
- Entrepreneurs should be able to demonstrate the following: basic business strategy and working prototypes or beta for their product; achieved significant milestones, such as securing contracts, awards, revenues, clients, and partnerships; a core management team; and an ability to raise capital.

Targeted Industry Sectors: software, security, infrastructure, biotech, internet, emedia, life sciences, telecommunications, agri- and enviro-tech businesses. Entrepreneurs with business and consumer products will be considered if they can demonstrate significant evolution to business practice or next generation product development.

We cannot conclude that the preceding application requirements (such as securing contracts, revenues, clients, and partnerships) are tantamount to outstanding achievements in business. Further, there is no evidence showing that prospective Springboard members are evaluated by recognized national or international experts in the petitioner's field or an allied one. According to its internet site, "[a]ll Springboard alumnae are included as members (Basic) of Springboard."³ Thus, individuals who complete the Springboard educational program automatically receive Basic membership. There is no indication that completion of a training program constitutes outstanding achievements. Nor is there evidence identifying the petitioner's category of Springboard membership.

In light of the above, the petitioner has not established that she meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national level from a local or regional publication. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.

As discussed, the petitioner submitted an April 27, 2004 article posted on the N24 (Germany) News Channel's internet site, but the English language translation accompanying the online article was not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3). The petitioner also submitted an article posted in the "Biz Roundup" section of *The Business Monthly's* internet site. With regard to the preceding articles, we note that their author was not identified as required by the plain language of this regulatory criterion. Further, there is no evidence showing that *The Business Monthly* and N24's online edition qualify as major media.

³ The Springboard Enterprises internet site further states: "Spring board offers alumnae three categories of membership: Basic, Peer and Trustee." Trustee (the most exclusive membership category) candidates "must have distinguished themselves among their peers, through their professional accomplishments, interest and ability to serve as advisors and their entrepreneurial verve." See <http://www.springboardenterprises.org/membercenter>, accessed on January 16, 2009, copy incorporated into the record of proceeding.

The petitioner submitted a July 28, 2003 article in the *Baltimore Sun* entitled “Incubator creates program to assist young companies” and a July 10, 2003 article in the *Washington Post* entitled “The Changing Ways of Incubation,” but neither article mentions the petitioner. The plain language of this regulatory criterion requires that the published material be “about the alien.” Thus, the preceding articles do not satisfy this criterion. In response to the director’s request for evidence, the petitioner submitted a “List of newspapers in the United States by circulation” from *Wikipedia*, an online encyclopedia. With regard to the circulation information from *Wikipedia* for the *Baltimore Sun* and the *Washington Post*, there are no assurances about the reliability of the content from this open, user-edited internet site.⁴ See *Lamilem Badasa v. Michael Mukasey*, No. 07-2276 (8th Cir. August 29, 2008). As such, we will not assign weight to circulation information for which *Wikipedia* is the only cited source.

As discussed, the petitioner submitted an undated press release prepared by the HCEDA. A press release is a written communication directed at the news media for the purpose of announcing information claimed as having news value rather than “published material . . . in professional or major trade publications or other major media.” We cannot conclude that a press release, which is not the result of independent media reportage and which is sent to journalists in order to encourage them to develop articles on a subject, meets the plain language of this regulatory criterion.

The petitioner submitted material posted on the HCEDA’s internet site entitled “The Center for Business and Technology: NeoTech Incubator,” but there is no evidence showing that this local agency’s website qualifies as a professional or major trade publication or some other form of major media. Further, the documentation submitted by the petitioner appears to be material written by her rather than published material about her.

In light of the above, the petitioner has not established that she meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

⁴ Online content from *Wikipedia* is subject to the following general disclaimer:

WIKIPEDIA MAKES NO GURANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on January 21, 2009, copy incorporated into the record of proceeding.

On appeal, counsel states: "In March 2008, [the petitioner] participated as an invited panel speaker at the Medici Summit in Scottsdale, Arizona, judging the work of others in the same field of specialization." The petitioner participated in this event subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Commr. 1971). Accordingly, the AAO will not consider her participation in the event in this proceeding.

In light of the above, the petitioner has not established that she meets this criterion.

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

a member of the Senior Executive Service at the National Security Agency, states:

I know [the petitioner] personally and am aware of some aspects of the work she has been doing in this country over the last several years. During this time I believe she has gained an extensive and detailed knowledge of business enterprise and entrepreneurial opportunities at the local and state level.

[REDACTED], Member of the Maryland State Senate, District 13, states:

[The petitioner] is an internationally recognized and topmost expert international business strategist and innovation expert. During her tenure at HCEDA, she played a key role in the organization's accomplishments in spearheading innovation and international outreach development. Her work set new and high standards in the regional, national and international outreach, specifically through the entrepreneurial initiatives that she created. Specifically, her knowledge about international markets and best practices in business development, her focus on Homeland Security, biopharma and information technologies, as well as her unique professional and education and background, have made these initiatives a tremendous success. Actively involved in the regional and international business community, she addressed specific public interest fields, such as homeland security.

[REDACTED] Chief Intelligence Officer for [REDACTED], an entrepreneurial innovation unit in Nokia, states:

[The petitioner] is an extraordinary leader with an impressive background and reputation in the field. She has played a key and central role in building a number of strategic alliances as well as extending opportunities and relationships for entrepreneurs that transcended international boundaries.

Due to her superior expertise, extraordinary knowledge, and considerable contributions, [the petitioner] was invited by Nokia to act as an external consultant working with some of the companies in which my group has invested. She has clarified market understanding and provided much needed insight and direction that has enabled not only growth but also profitability.

[REDACTED], Director of Channel Marketing for BEA Systems, Inc., states:

[The petitioner] is an internationally recognized specialist in network architecture and best practises [sic] and has created various significant and successful forms of networks and alliance structures that support various forms of entrepreneurs such as start-up and growth business development, technology transfer and include even international approaches.

[REDACTED], President and Chief Executive Officer of ThinkFire Inc., an intellectual property professional services firm, states:

[The petitioner's] business accomplishments . . . are extraordinary. She has demonstrated enormous ability and creativity in the filed [sic] of corporate business development and business strategy that have directly furthered the boundaries of the field and place her at the very top among her peers in this area.

[REDACTED], Director of Foreign Investment Sales for Eastern Europe, the Middle East, and Africa of the German investment bank, [REDACTED], states:

[The petitioner's] tremendous success in international networks and business development is a result of her crucial mix of profound knowledge in applied communicational structures, business intelligence, cultural differences in business attire, and bureaucratic and educational processes. Experts with this unique mix of skills are an extreme rare find. [The petitioner] is the only expert I have come across who possesses these qualities in such a powerful and passionate way, as demonstrated in her ingenious contributions and achievements.

We acknowledge the petitioner's submission of several reference letters praising her business expertise and discussing her activities in the field. Success and effectiveness in one's field, however, are not necessarily indicative of original business-related contributions of major significance. The record lacks evidence showing that the petitioner has made original contributions that have significantly influenced or impacted her field.

[REDACTED], Secretary of Business and Economic Development, states:

I came to know [the petitioner] through her employment as an International Business Strategist with the Howard County Economic Development Authority of Maryland in 2002. In that capacity, she was the in-house consultant for technology (ITC/Bio) companies in HCEDA's NeoTech incubator. She played an integral role in building and developing

various international strategic alliances, planning, organizing and conducting trade missions and creating trade, entrepreneurship and technology transfer programs and networks throughout Europe (specifically Germany, Switzerland, Spain, UK, France, Italy etc.) with the objective of motivating small businesses to think and grow globally.

[REDACTED], Director of [REDACTED], Johns Hopkins University Applied Physics Laboratory, states that he “served as a founding member and chair of the Howard County NeoTech Business Incubator.” He further states:

An example of [the petitioner’s] innovative skills is illustrated by her pioneering development of the novel Sustainable Business Excellence (SBE) process. She devised, developed and implemented the program in the NeoTech Incubator. The SBE process is a novel, innovative process with wide ranging applicability. It has received praise at the national and international levels and has been awarded the National Business [Incubation] Association’s 2004 competitive award for Most Innovative New Program. [The petitioner] developed, tested and ran the program at NeoTech, and is the foremost expert in the application of the SBE program to incubator and small companies. SBE consists of a quality management process model based on organizational learning and authentic leadership. It touches all aspects of a fully operational business, from product management excellence to management excellence. Important aspects include eleven categories of a successful business: marketing, sales, public relations, product development, business plan, financial excellence, funding, strategy and tactics, human resources, governance excellence, and intellectual assets.

[REDACTED], Managing Director for Mergers and Acquisitions at [REDACTED] states that [the petitioner] was recruited by the Howard County Economic Development Authority when he was serving as chair of the Authority’s board and incubator sub-committee. Dr. Huddie states that the petitioner’s contributions included the following:

1. Inventing the Sustainable Business Excellence (SBE) program. This is a system to assess the status and track the progress of businesses through their life cycle; it has particular relevance for early stage companies and technology transfer activities. In 2004, her invention won the National Business Incubation Association Award for Most Innovative Business Development Best Practises [sic] in Incubation.
2. Creating Incunet, an international network linking technology business incubators in six countries (USA, Britain, France, Italy, Spain and Switzerland) with the Johns Hopkins Applied Physics Laboratory and the Howard County Economic Development Authority. This is a unique tool for developing export opportunities for emerging U.S. technology companies.
3. Creating the Johns Hopkins Applied Physics Laboratory Technology Transfer Training and Mentor Program and bringing in the first mentor agreement between the APL and the Technical University of Milan. The APL is arguably the nation’s premier university research laboratory and has received billions of dollars in federal R&D funding over

several decades; the institution is actively seeking ways to commercialize its repository of intellectual property, and [the petitioner] has been an essential agent in the program.

4. U.S. Biodefense: [The petitioner] researched and wrote a ground-breaking report on the U.S. Biodefense market. This report was developed to quantify the opportunity open to a particular biotechnology company in Maryland but has great utility for other U.S. companies. The report aids the United States to leverage commercial resources to meet the biodefense challenges faced by the nation.

In the same manner as [redacted] and [redacted], several of the individuals providing reference letters discuss the petitioner's receipt of an award from the NBIA. The petitioner's NBIA award has already been addressed under the awards criterion at 8 C.F.R. § 204.5(h)(3)(i). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for awards and original contributions, USCIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless.

[redacted], Business Area Executive for Science and Technology at the Johns Hopkins Applied Physics Laboratory, and Chair of the Center for Business and Technology Innovation Advisory Board for Howard County, states:

[The petitioner] worked for two years with the Howard County Economic Development Authority (HCEDA) assisting in the infrastructure development of our NeoTech Technology Business Incubator. She is the architect and champion of the Sustained Business Excellence (SBE) process which has assisted many American small and medium businesses. The process she conceived was validated using eleven different focus groups made up of experts and leaders from the local business community to verify the base parameters as a best practice approach and to qualify the final model. Her work has helped in streamlining the incubator process for start-up firms, as well as giving them a sound strategy for continued and measured growth.

[redacted], Managing Director of Technology and Emerging Growth practice, RSM McGladrey, Inc., states:

By implementing SBE, [the petitioner] substantially strengthened the ability to establish an environment to help small emerging companies, start-up businesses, and first-time entrepreneurs to grow, prosper and create jobs. The SBE process is also able to accelerate the formation of investable, sustainable technology-based businesses by providing entrepreneurs with the specialized infrastructure, guidance and networking contacts necessary to launch and realize their vision. Most importantly, the tool serves to increase an incubator client's probability of success by complementing their technical expertise with the experience.

In a joint letter, [redacted], Chief Executive Officer, [redacted], and V [redacted], Chair, Advisory Board, Center for Business and Technology Development, [redacted] A, state:

[D]uring her time at the NeoTech Incubator, [the petitioner] was a major, award winning, contributor of innovative ideas which help emerging companies reduce the risk of start up, and move effectively toward sustained business operation. She was an active and effective program manager bringing together many disparate groups in both the United States and internationally, and getting their agreement on complex technical ideas and approaches to technology transfer and small business assistance.

██████████ Director of the ██████████ for Entrepreneurship at the University of Maryland, Baltimore County, states:

I know of [the petitioner's] work by way of her presentations, publications, and her work as an International Business Strategist with the Howard County Economic Development Authority. In this capacity she supported HCEDA's efforts in fostering small business growth in the high-tech area at their NeoTech Incubator, which hosts around 20 technology startups. She worked there as a consultant, advising residents on business growth and conducting business analyses. [The petitioner] created and implemented a highly innovative business management program called Sustainable Business Excellence

██████████, President ViTAL Economy, Inc., states:

I have been particularly impressed with [the petitioner's] original work in the development of the Howard County NeoTech Incubator and Incunet, both milestones in the field. [The petitioner's] understanding of the life cycles of start-up enterprises, as well as her multi-cultural approach to understanding innovation as it evolves from country to country, is unique and extraordinary.

██████████z, Head of the Technology Transfer Office of the University of Bielefeld, Germany, states:

As a distinguished U.S. expert in business development and international alliance creation, [the petitioner] possess unique and profound abilities that have enabled her to make practical contributions to furthering the fundamental understanding in different technology areas, such as IT & Communications, BioPahrma [sic] and Homeland Security. She has been playing a leading role in her work with top U.S. economic development and technology transfer organizations. She has inspired and created international tech transfer projects and developed and established programs and networks to foster entrepreneurship, innovation and technology transfer. Her development of Incunet as an international technology transfer alliance is considered a milestone in the field. [The petitioner] has an imperative understanding of business processes as well as cultural differences and has made unprecedented contributions to the field by translating U.S. know-how into workable European initiatives that have greatly advanced the field.

Director of New Ventures, ██████████, states that he met the petitioner while serving as a member of the board of the Howard County NeoTech Incubator. He

further states that the petitioner “played a key and vital role” for the business incubator through her design and implementation of the SBE program and her development of Incunet.

Head of Finance Architecture for Citigroup’s Corporate Center in London, states:

I first became aware of [the petitioner’s] innovative work in the field of international entrepreneurship at a professional meeting in New York. She impressed me as a foremost expert when she presented her novel approach to creating a global network for fostering the internationalization of small technology firms by providing them with a comprehensive infrastructure to access international funding sources, service providers, technology, marketing and partnership opportunities. Most notable was that [the petitioner] created and implemented a cross-cultural formula for entrepreneurship [sic] for which several European countries signed up in a very short period of time. By doing so, she demonstrated critical knowledge on entrepreneurial needs, elite leadership and a high level of cultural and communicational expertise, which is indispensable [sic] for these kinds of projects.

Several of the preceding individuals discuss the petitioner’s development of the SBE program and her creation of Incunet. While these systems have improved business activity for the organizations involved, there is no evidence establishing that this work is tantamount to business-related contributions of major significance in petitioner’s field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien’s contributions must be not only original but of major significance. We must presume that the phrase “major significance” is not superfluous and, thus, that it has some meaning. While the petitioner is admired for her work on projects for the HCEDA and its participating organizations and businesses, the petitioner has not established that her work constitutes contributions of major significance in her field. For example, the record does not indicate the extent of the petitioner’s influence on others in her field nationally or internationally, nor does it show that the field has somehow changed as a result of her work.

Executive Director of the Maryland/Israel Development Center, states:

Many of the critical and recurring problems that business people and entrepreneurs from around the world face when conducting international trade are directly addressed by [the petitioner’s] work. The tools and methodologies she has developed and implemented have tremendously impacted and furthered the pressing needs of growing technology – based businesses in management, strategic planning and operations. Her work is considered a pivotal contribution to the economic development field.

We accept that the petitioner’s work was beneficial to the HCEDA and its participating businesses, but there is no supporting evidence showing that her tools and methodologies represent a “pivotal contribution to the economic development field” as claimed in [redacted]’s letter. For example, [redacted]’s letter does not specify the extent to which companies throughout the field utilize her tools and methodologies.

[REDACTED], Head of Economic Development, [REDACTED]h, states:

I made the acquaintance of [the petitioner] in the context of such a pace-setting cooperation project, namely the World Cities Alliance, which is an innovative partnership between the Greater Washington Initiative, Berlin, Paris and Zurich for business development.

* * *

[The petitioner] has set revolutionary new standards in creating successful high-tech SME [small and medium enterprises] with her Sustainable Business Excellence patent. She has been designing and launching national and international programs to allow entrepreneurs to tap into and profit from technology transfer, investment capital and global marketing and growth opportunities such as the ITC & life science market.

The petitioner submitted evidence showing that she filed two patent applications with the U.S. Patent and Trademark Office. There is no evidence showing that the petitioner has been granted a patent for her business processes. Even if the petitioner were to submit such evidence, the grant of a patent demonstrates only that an invention is original. There is no evidence demonstrating that the petitioner's business processes constitute contributions of major significance in her field. Without evidence showing substantial commercial interest in these methodologies beyond the HCEDA, their widespread implementation and licensing, or that they have otherwise risen to the level of contributions of major significance in the field, we cannot conclude that the petitioner's business processes meet this regulatory criterion.

[REDACTED]h, President of the Economic Alliance of Greater Baltimore, states:

[The petitioner's] credentials are impressive. She has greatly contributed to the field through her development of local business by serving as consultant on information technology, biopharmaceutical and homeland security industries, providing business intelligence and analysis, opportunity identification, due diligence, international growth opportunities, matchmaking and business development, and network development advisory to small technology businesses. In 2004, she authored one of the first biodefense studies . . . in the field of homeland security at the time, an important contribution to the field.

The petitioner's authorship of studies, publications, and conference presentations relates to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi) and will be further addressed there. Nevertheless, there is no evidence showing that the petitioner's biodefense study has significantly influenced the field or attracted national or international attention such that it can be considered an original contribution of major significance in the field.

[REDACTED], Member of the United States Congress, 10th District, New York, states:

[The petitioner] is an extraordinary and internationally acclaimed expert in the field of Innovation and Strategic Business Development. Her expertise and contributions to national

and international entrepreneurship, innovation and technology transfer management, corporate and economic development, and business practices have tremendously supported job creation and business education and hence are critical for continuing the progress in these fields. Her research and extraordinary ability have substantially benefited and will continue to benefit the U.S. business world, corporate leadership, and homeland security.

In a subsequent letter inquiring as to the status of [the petitioner's] appeal, [REDACTED] reiterates his support for the petitioner citing the strength of her resume.

In this case, the letters of recommendation submitted by the petitioner are not sufficient to meet this regulatory criterion. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. Thus, the content of the experts' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of an individual who has sustained national or international acclaim at the very top of the field. Without extensive documentation showing that the petitioner's work has been unusually influential, highly acclaimed throughout her field, or has otherwise risen to the level of original contributions of major significance, we cannot conclude that she meets this criterion.

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

The petitioner submitted evidence showing that she authored articles posted online by the Public Forum Institute, MarketResearch.com, and the Business Incubator Research Center of China. The petitioner also submitted evidence reflecting that she authored material for the Net'swork 2004, 2005 and 2006 Congresses in Germany. Further, the petitioner submitted documentation showing that she wrote an article published in *The Business Monthly* (which covers business news in "Howard County, BWI Business District, and Northern Anne Arundel County" in Maryland) and authored a chapter in the German publication *Commercialization Networks* (2005). The German language documentation was not accompanied by certified English language translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). With regard to the petitioner's book chapter, there is no evidence showing the number of copies of this book in print or that the book had substantial national or international readership. Regarding petitioner's articles, there is no evidence (such as circulation statistics) showing that they were in professional or major trade publications or some other form of major media. In this case, the petitioner has not submitted evidence establishing that her articles, conference presentations, and book chapter were frequently cited by others in her field, and that they appeared in major publications or were otherwise published and circulated in a manner consistent with

sustained national or international acclaim. As such, the petitioner has not established that she meets this criterion.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The petitioner argues that presentation of her work at various meetings and conferences (such as the Nokia Speakers Series and the Net'swork Congresses) meets this regulatory criterion. The petitioner's field, however, is not in the arts. The plain language of this regulatory criterion indicates that it is intended for visual artists (such as sculptors and painters) rather than for business strategists such as the petitioner. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation. The conference material prepared by the petitioner is far more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi), a criterion that we have already addressed. Nevertheless, in the field of business, acclaim is generally not established by the mere act of presenting one's work at a conference or meeting. Nothing in the record indicates that the presentation of one's work is unusual in the petitioner's field or that invitation to present at the venues where the petitioner spoke was a privilege extended to only those at the very top of the field. Many professional fields regularly hold conferences and meeting to present new work, discuss industry trends and innovations, and network with other professionals. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. Participation in such events, however, does not elevate the petitioner above almost all others in her field at the national or international level.

In light of the above, the petitioner has not established that she meets this criterion.

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

In order to establish that she performed in a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of her role within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted letters discussing her consulting role for the HCEDA, but the evidence does not establish that her role was leading or critical. There is no evidence demonstrating how the petitioner's role differentiated her from the other individuals working for the HCDEA, let alone its senior management (such as its officers and directors). While the documentation submitted by the petitioner shows that she performed admirably for the HCDEA, it does not establish that she was responsible for the organization's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. As such, the petitioner has not established that she meets this criterion.

In this case, the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that she meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). The conclusion we

reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

On appeal, the petitioner requests oral argument stating: “As the field progresses every day, an update only through a personal argument is going to deliver satisfactory information and complete assessment. . . . Only a personal discussion of the evidence provided for these extraordinary ability criteria . . . will help USCIS to conclude that the applicant indeed qualifies” The petitioner then discusses her evidence submitted for the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (v), and (vii). The petitioner’s arguments pertaining to these regulatory criteria have already been addressed in our preceding discussion of the evidence. The petitioner further argues that the large number of reference letters from experts in the field is an acknowledgement of her extraordinary ability. With regard to the numerous reference letters submitted by the petitioner, while such letters can provide useful information about her qualifications or help in assigning weight to certain evidence, they are not a substitute for objective evidence of her achievements and recognition as required by the statute and regulations. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires “extensive documentation” of sustained national or international acclaim. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Primary evidence of achievements and recognition is of far greater probative value than the opinions of one’s professional acquaintances.

With regard to the petitioner’s request for oral argument, the regulations provide that the requesting party must explain adequately in writing why oral argument is necessary. Furthermore, USCIS has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.F.R. § 103.3(b). In this instance, the petitioner identified no unique factors or issues of law to be resolved that cannot be addressed in writing. Moreover, the written record of proceedings fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

Review of the record does not establish that the petitioner has distinguished herself 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 petitioner’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.