U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: NOV 15 2013 Office: NEBRASKA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
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)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner seeks classification as an "alien of extraordinary ability" in business, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A). 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.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

The petitioner's priority date established by the petition filing date is September 26, 2011. On June 15, 2012, the director served the petitioner with a request for evidence (RFE). After receiving the petitioner's response to the RFE, the director issued his decision on September 17, 2012. On appeal, the petitioner submits a brief with additional documentary evidence. For the reasons discussed below, the petitioner has not established his eligibility for the classification sought.

I. LAW

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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

On appeal, counsel relies on *Buletini v. INS*, 860 F.Supp. 1222 (E.D. Mich. 1994), for the propositions that the evidence a petitioner submits under each criterion need not demonstrate extraordinary ability and that USCIS may not add requirements to those that appear in the regulation. While correct, a more detailed discussion of these issues appears in a recent circuit court decision. In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter, the AAO will review the evidence under the plain language requirements of each criterion claimed. As the petitioner did not submit qualifying

[1] Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

evidence under at least three criteria, the proper conclusion is that the petitioner has failed to satisfy the regulatory requirement of three types of evidence. *Id.*

II. ANALYSIS

A. Standard of Proof

On appeal, counsel asserts that instead of applying the preponderance of the evidence standard of proof, the director applied a "higher standard by expecting that the Petitioner demonstrate in each separate criterion that the Beneficiary is extraordinary." The record does not support counsel's assertion that the director held the petitioner's evidence to an elevated standard beyond that which is required by most administrative immigration cases, the preponderance of the evidence standard of proof. The most recent precedent decision related to the preponderance of the evidence standard of proof is *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). This decision, and this standard, focus on the factual nature of claims within evidence; not whether such claims satisfy a regulatory requirement. *Id.* at 376. The preponderance of the evidence standard does not preclude USCIS from evaluating the evidence. The *Chawathe* decision also stated:

> [T]he "preponderance of the evidence" standard does not relieve the petitioner or applicant from satisfying the basic evidentiary requirements set by regulation. There are no regulations relating to a corporation's eligibility as an "American firm or corporation" under section 316(b) of the Act. Had the regulations required specific evidence, the applicant would have been required to submit that evidence. *Cf.* 8 C.F.R. § 204.5(h)(3) (2006) (requiring that specific objective evidence be submitted to demonstrate eligibility as an alien of extraordinary ability).

25 I&N Dec. at 375 n.7. The final determination of whether the evidence meets the plain language requirements of a regulation lies with USCIS. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988) (finding that the appropriate entity to determine eligibility is USCIS in a scenario whereby an advisory opinion or statement is not consistent with other information that is part of the record). Ultimately, USCIS determines the truth not by the quantity of evidence alone but by its quality. *Matter of Chawathe,* 25 I&N Dec. at 376 (citing *Matter of E-M-* 20 I&N Dec. 77, 80 (Comm'r 1989)). The *Chawathe* decision further states:

> Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "more likely than not" or "probably" true, the applicant or petitioner has satisfied the standard of proof. *See INS v. Cardoza-Fonseca,* 480 U.S. 421, 431 (1987) (discussing "more likely than not" as a greater than 50% chance of an occurrence taking place). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

Id. As the director concluded that the petitioner had not submitted relevant and probative evidence satisfying the regulatory requirements, the director did not violate the appropriate standard of proof. The standard of proof issue is separate and distinct from counsel's assertion that the director may have gone beyond the regulatory requirements, which the AAO will address below. The record supports the director's ultimate conclusion that the petitioner did not submit probative evidence to establish his eligibility.

B. Evidentiary Criteria[2]

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

This criterion contains several evidentiary elements the petitioner must satisfy. According to the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), the evidence must establish that the alien is the recipient of the prizes or the awards (in the plural). The clear regulatory language requires that the prizes or the awards are nationally or internationally recognized. The plain language of the regulation also requires the petitioner to submit evidence that each prize or award is one for excellence in the field of endeavor rather than simply for participating in or contributing to an event or to a group. The petitioner must satisfy all of these elements to meet the plain language requirements of this criterion.

The petitioner provided evidence related to the [redacted] The director determined that the petitioner did not meet the requirements of this criterion.

Counsel's appellate brief indicates that the director erred in stating that the primary purpose of the petitioner's prizes or awards must be to recognize excellence in the petitioner's field and that nothing in the regulation supports this position. While the director discussed this aspect within the RFE, the director omitted this discussion within his final decision. As such, it is not necessary to address it within this decision.

Throughout the proceedings, the petitioner asserted only one award under this criterion, the [redacted] The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of "prizes or awards" in the plural, which is consistent with the statutory requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act; 8 U.S.C. § 1153(b)(1)(A)(i). Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the AAO can infer that the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or

[2] The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

plural is used in a regulation. *See Maramjaya v. USCIS,* Civ. Act. No. 06-2158 (RCL) at *1, *12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *1, *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials). Therefore, even if the petitioner demonstrates that the is a qualifying award under this criterion, it is but one award and cannot satisfy the regulatory requirement of more than one qualifying prize or award.

Regarding whether the issued its research prize for excellence, the petitioner initially provided information about the prize from the issuing organization describing the award and the guidelines for the award's issuance. This evidence, in addition to the evidence submitted in response to the RFE, sufficiently demonstrates that this prize is for excellence in the petitioner's field.

The petitioner also asserted that because five academics and leading practitioners in the field from multiple countries supported the nomination letter for this prize, and because the presented this prize at its annual seminar in France, that the prize received international recognition. National and international recognition results, however, not from the individuals who were willing to write supporting letters if requested by the judging panels, but through the awareness of the accolade in the eyes of the field nationally or internationally. This recognition can occur through various means; for example, through media coverage. A national or international level competition may issue lesser awards that merely receive local or regional recognition, which do not meet the plain language requirements of this criterion. Additionally, unsupported conclusory letters from those in the petitioner's field are not sufficient evidence that a particular prize or award is nationally or internationally recognized.

Regarding whether the is a nationally or internationally recognized prize or award, the petitioner initially submitted two forms of media that contain the same article; a November 16, 2010 article from and an article from the December 2010 issue of While the evidence in the form of an article from appears on a website, the petitioner provides no evidence to establish the popularity of the website such that coverage on the site is indicative of the national or international recognition in the field. The record lacks evidence that www.pmforum.org is an online version of media with a national reach. Notably, the author's name does not appear on this article and "blog" appears within the web address. Thus, the petitioner has not established that this article represents journalistic coverage of the prize.

National or international accessibility by itself is not a realistic indicator of a given website's reputation. is nationally and internationally broadcast, and as a result, the website is significant and content posted on the web site can be considered indicative of national recognition. The petitioner has not presented any evidence to establish that the content from can be considered to receive national or international recognition.

Regarding the article's appearance in the petitioner provided no information relating to the circulation or the distribution data of this publication and thus, the petitioner may not rely on to establish that this prize is nationally or internationally recognized.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally recognized in the field of endeavor and it is the petitioner's burden to establish that he meets every element of this criterion. In this instance, there is no documentary evidence demonstrating that this prize is recognized beyond the presenting organization and a blogger on

As such, the petitioner has not submitted evidence that meets the plain language requirements of 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.*

This criterion contains several evidentiary elements the petitioner must satisfy. First, the petitioner must demonstrate that he is a member of more than one association in his field. Second, the petitioner must demonstrate both of the following: (1) that the associations utilize nationally or internationally recognized experts to judge the achievements (in the plural) of prospective members to determine if the achievements are outstanding, and (2) that the associations use this outstanding determination as a condition of eligibility for prospective membership.

The petitioner claims eligibility under this criterion based on his membership in the in addition to his service on the board of trustees and as a trainer of this same association. The director determined that the petitioner did not meet the requirements of this criterion. Specifically, the director concluded that the petitioner did not provide evidence of the requirements for membership in The director also concluded that the petitioner's position on the was an elected position and that the petitioner did not demonstrate either of these memberships requires outstanding achievements of its members.

Counsel asserts that the director did not discuss, nor did he consider all of the evidence on record. The petitioner identified the letter from the Chairman of the Specifically, counsel quotes Ms. letter that provides the number of members on the board of trustees, in addition to indicating that the board of trustees are well-known representatives from universities, experienced experts or consultants with extraordinary ability in the field of project management. That the petitioner was elected to the is not an example of membership in an association in the petitioner's field. Further, Ms. did not indicate that election on the board of trustees requires outstanding achievements of its members. The petitioner addresses other letters submitted on his behalf relating to his membership on the board of trustees, however, the petitioner provided no evidence that being a member on the board of trustees

satisfies the plain language of this criterion, which requires membership in qualifying associations in the field.

The petitioner provided the statute in a foreign language and an excerpt translation into English in response to the RFE. The translation is not accompanied by a translator's certification that the translation is "complete and accurate," as required by the regulation at 8 C.F.R. § 103.2(b). Therefore, this evidence has no probative value. As the director did not raise any concerns regarding the statute translation, this decision will provide an analysis of its contents. The statute translation is only an excerpt and it omits the membership requirements for this organization. It does provide that has three membership levels, corporate members, personal members, and honorary members. The petitioner did not document his membership level. The statute also described the and indicated that the members are elected to serve on the board rather than being admitted to membership in an association based on outstanding achievement as required by the regulation. Even relying on the statute translation, the petitioner has not submitted evidence that his membership in or on its Board of Trustees satisfies the regulatory requirements under this criterion.

Within the appellate brief the petitioner also claims eligibility as a Control Committee member but did not establish that this committee membership requires outstanding achievements of its members. Regarding the petitioner's claims of eligibility based on his status as a trainer within the November 2005 letter from Chairman of the Board, reflected that the trainers must prove his or her expertise during a "standard certification process." Such a process does not comport with the regulatory requirement that the petitioner demonstrate outstanding achievements as one of the conditions of membership.

Based on the foregoing, the petitioner has not submitted evidence that meets the plain language requirements of 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.*

This criterion contains three evidentiary requirements the petitioner must satisfy. First, the published material must be about the petitioner and the contents must relate to the petitioner's work in the field under which he seeks classification. The published material must also appear in professional or major trade publications or other major media (in the plural). Professional or major trade publications are intended for experts in the field or in the industry. To qualify as major media, the publication should have significant national or international distribution and be published in a predominant national language. The final requirement is that the petitioner provide each published item's title, date, and author and if the published item is in a foreign language, the petitioner must provide a translation that complies with the requirements found at 8 C.F.R. § 103.2(b)(3). The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The director determined that the petitioner did not meet the requirements of this criterion as the submitted material was not about the petitioner.

Within the initial filing, the petitioner claimed eligibility under this criterion based on two articles that appeared in This publication constitutes a professional publication. Both articles are in a foreign language and are accompanied by certified summary translations. The certified translations do not comply with the regulatory requirement at 8 C.F.R. § 103.2(b)(3) that any foreign language document be accompanied by a full English translation. As the director did not raise this as an issue and afford the petitioner the opportunity to remedy the incomplete translation, the AAO will accept the January 2010 article as featuring a personal interview with the petitioner such that it is about him and relates to his work in the field.

The second article, dated March 2011, appeared in this same publication. However, the summary translation reveals that this published material is not about the petitioner; the article only mentions him in one sentence within a seven page article. The correspondence within the initial filing statement, in response to the RFE, and in counsel's appellate brief each state that the petitioner is "explicitly mentioned" in this article. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii), however, requires that the published material be "about the alien." *See Noroozi v. Napolitano*, 905 F.Supp.2d 535, 545 (S.D.N.Y. Nov. 14, 2012); *also see generally Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at 7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show or a character within a show are not about the performer).

The director's decision indicated that the petitioner did not establish that the published material was about him. The decision did not indicate whether this determination was related to both articles or just one. As discussed above, while the January 2010 article sufficiently meets the regulatory requirement, the March 2011 article does not. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires evidence of published material in "professional or major trade publications or other major media" in the plural, which is consistent with the statutory requirement for extensive documentation. *See* section 203(b)(1)(A)(i) of the Act.

Consequently, the single qualifying article noted above is not sufficient to demonstrate the petitioner has satisfied this criterion's requirements.

> *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.*

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence to establish that he meets this criterion.

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

The plain language of this regulatory criterion contains multiple evidentiary elements that the petitioner must satisfy. The first is evidence of the petitioner's contributions (in the plural) in his field. These contributions must have already been realized rather than being potential, future contributions. The petitioner must also demonstrate that his contributions are original. The evidence must establish that the contributions are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase "major significance" is not superfluous and, thus, it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). Contributions of major significance connotes that the petitioner's work has significantly impacted the field. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The petitioner provided several expert letters as evidence under this criterion. The director determined that the petitioner did not meet the requirements of this criterion. Specifically, the director stated:

> You submitted evidence in the form of opinion letters by experts in the field. These letters establish the high esteem in which you are held by several clients and industry professionals and that you have contributed to the field. However, the evidence does not demonstrate the major significance of your original contributions . . . While your contributions are no doubt of value, you failed to submit any documentary evidence demonstrating that your work has been unusually influential or impacted the field.

Counsel's appellate brief asserts that the director dismissed the letters in support of the petitioner's claims under this criterion without according them sufficient evidentiary weight.

Within the appellate brief counsel states that the petitioner "contributed a pioneering concept as a member of a team of three experts, which formed a partnership from three different organizations working in different fields that was awarded the 2010 for its work on a project titled by radical re-thinking of " Counsel continues: "The originality and major significance of this particular contribution is clear based on the evidence presented above under 'Criteria1' [the prizes or awards criterion]." Counsel asserts the following factors demonstrate this contribution is original and of major significance:

- 2010 was the first and only instance that the issued this award as no other work was sufficient to meet the high standard of the award;
- The reason the panel awarded the was "to push forward the boundaries of Project Management and [to] develop a new approach to solving the problems of complexity. Building on research that, in one case started in 1990 and recognizing the synergy between the approaches, generates a new paradigm for Project Management."

- Others in the field have verified the prestige of this award;
- Various publications have written about the [redacted] prize indicating how it provoked widespread commentary.
- [redacted] interviewed the petitioner and discussed his work, supporting the contention that his contributions are of major significance.

The evidence relating to the [redacted] prize indicated that the prize recognized the entity "that produces the most worthy piece of applied research in support of [redacted] . . . It is the hope of the [redacted] that this award will enable further work to proceed in order to generate a practical framework for practitioners in the field of Complex Projects." This evidence appears on [redacted] letterhead, but there is no author name and title, author's signature or date on this document. It also does not bear any indicia of deriving from an official [redacted] publication or website, such as pagination or a web address. Further, the document does not reflect that [redacted] issued this prize to recognize contributions in the petitioner's field that have already come to fruition, which is required under this criterion. Rather, [redacted] stated that it hopes the award will help additional work to proceed.

Within the appellate brief, counsel also identifies several expert letters previously submitted within the proceedings before the director. The first letter, dated July 26, 2012, is from [redacted] President of the [redacted] and Vice President of Marketing and Events for the [redacted] Mr. [redacted] indicated that the petitioner's work is important, that it benefits those in the project management industry, and that the petitioner has put together at least one forum where international project managers share and discuss modern results affecting trends in project management. Mr. [redacted] stated that the petitioner's "special contribution is his ideas and concept for a modern incentive and motivation system." Mr. [redacted] identified this contribution as "a major step to create a better fit between the human reward system and the enterprise reward system." Mr. [redacted] did not did not specify how the petitioner's work has impacted the field, nor did he indicate that the petitioner's ideas have resulted in changes in the field. As discussed in greater detail below, Mr. [redacted] letter has little probative value because of its use of boilerplate language that also appeared in other letters the petitioner submitted as evidence.

Counsel asserts on appeal that the letter from Dr. [redacted] Chairman of the [redacted] "confirms [the petitioner's] contributions of major significance to the field." Within Dr. [redacted] December 19, 2005 letter, he provided the petitioner's history both in the field and with [redacted] Dr. [redacted] also indicated that the petitioner led a national study, presented the results at an international conference, and took over the position as the project coordinator of a separate international study. That the petitioner has assisted with a national study and is coordinating an international study is not sufficient to demonstrate that the petitioner has made original contributions in his field that are already of major significance. The petitioner did not provide evidence demonstrating or explaining how these studies have had an impact within his field.

On appeal counsel also identifies the letter from Dr. [redacted] Professor of Management and Director of Technology and Project Management Programs at [redacted] as qualifying evidence under this criterion. Dr. [redacted] indicated within his letter that the petitioner is well

recognized within the project management field, and it is through his published works that the petitioner has impacted the field. Dr. stated:

> His state-of-the-art work, published in word-class [sic] journals and presented at conferences, clearly demonstrates originality and scholarly excellence . . . [the petitioner's publications] have not only contributed significantly to the body of knowledge in this contemporary field of management, but also inspired many other scholars in their research and teachings.

Although Dr. utilized the language found in the regulation, he did not provide examples of how the petitioner's publications have contributed significantly to his field. Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Similarly, USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States,* 745 F. Supp. 9, 15 (D.C. Dist. 1990). The petitioner did not document that his published work has been influential within the field.

Dr. a professor at the asserts that the petitioner's "work has often been cited by leaders in academia and business for his ability to integrate among multidisciplinary concepts and processes, such as project management, product development and technology management." The record does not contain a citation index or other evidence of citations to corroborate Dr. conclusory statement.

Counsel also discusses the letter from a board member of on appeal. Ms. asserts the petitioner has made a great contribution to the The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) requires the petitioner to have made contributions in his field rather than to a single association. Although Ms. indicated the petitioner "has led the way with his research into the parallels between neuroscience and project management," she did not describe the impact that the petitioner's research has had in his field. Ms. s letter also does not contribute to the petitioner demonstrating his eligibility under this criterion.

Counsel also refers to letters from the petitioner's clients. While the content of these letter may be relevant to the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(viii), the letters do not contain examples establishing that the petitioner has made contributions that rise to the level of major significance in his field.

Counsel further asserts that the petitioner's invitations to present at conferences satisfy this criterion. Although such invitations may demonstrate a level of interest in the petitioner's ideas, the petitioner did not demonstrate how such invitations constitute contributions of major significance in the petitioner's field. At issue is the impact of these presentations upon completion. The record contains no evidence that the petitioner's presentations ultimately impacted the field. Finally, counsel references a letter from Dr. the Dr.

indicated that the petitioner was awarded an internal title as a Visiting Expert with the university, and that the university invited the petitioner to work with students. Dr. letter did not explain how the petitioner's work at this university has impacted the field.

The Board of Immigration Appeals (BIA) has stated that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing *Matter of M-D-*, 21 I&N Dec. 1180 (BIA 1998); *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998); *Matter of Dass*, 20 I&N Dec. 120 (BIA 1989); *see also Matter of Acosta*, 19 I&N Dec. 211, 218 (BIA 1985)). The Board clarified, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Matter of S-A-*, 22 I&N Dec. at 1332. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. at 1136.

Letters that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). In 2010, the *Kazarian* court reiterated that the AAO's conclusion that "letters from physics professors attesting to [the alien's] contributions in the field" was insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122. The opinions of experts in the field are not without weight and have been considered above. While such letters can provide important details about the petitioner's skills, they 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. at 795. 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; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations.

In view of the foregoing, the petitioner has not submitted evidence that meets the plain language requirements of 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 director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence to establish that he meets this criterion.

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

This criterion anticipates that a leading role should be apparent by its position in the overall organizational hierarchy and that it be accompanied by the role's matching duties. The petitioner also has the responsibility to demonstrate that he actually performed the duties listed relating to the leading role. A critical role should be apparent from the petitioner's impact on the organization or the establishment's activities. The petitioner's performance in this role should establish whether the role was critical for the organization or establishment as a whole. The petitioner must demonstrate that the organizations or establishments (in the plural) have a distinguished reputation. While neither the regulation nor precedent speak to what constitutes a distinguished reputation, Merriam-Webster's online dictionary defines distinguished as, "marked by eminence, distinction, or excellence."[3] Dictionaries are not of themselves evidence, but they may be referred to as aids to the memory and understanding of the court. *Nix v. Hedden,* 149 U.S. 304, 306 (1893). Therefore, it is the petitioner's burden to demonstrate that the organizations or establishments claimed under this criterion are marked by eminence, distinction, excellence, or an equivalent reputation. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The petitioner provided several letters from businesspersons accompanied by information relating to each business. The director determined that the petitioner did not demonstrate that enjoyed a distinguished reputation and that the petitioner's performance as a consultant or an advisor with did not qualify as a leading or critical role. Ultimately, the director determined the petitioner did not meet the requirements of this criterion.

The petitioner asserts on appeal that the director did not consider all the submitted evidence and asserts that the more than one dozen letters support his eligibility under this criterion. The petitioner's primary eligibility claim relates to his work for As evidence, the petitioner submitted a letter dated September 20, 2011 from The letter does not reflect Mr. position within the organization. Mr. confirms an offer to the petitioner to continue his employment under the title, General Manager. Mr. did not provide the job duties that the petitioner had been previously performing for this organization, rather Mr. lists the petitioner's future duties. USCIS will not presume that the petitioner already performed in a leading or a critical role for simply from his title within the organization; additional probative, corroborating evidence must also be part of the record. Mr. letter stated: "Since his transfer to the United States, [the petitioner] has performed in a critical role for customers of A discussion of the petitioner's role for the company's customers follows. Regarding the petitioner's role for itself, Mr. stated within his letter that the petitioner's "profound and pioneering expertise has allowed to build a professional international project management group to consult with automotive clients in the United States." Mr. did not however, establish the role that the petitioner played in the creation of this project management group, nor did Mr.

[3] *See* http://www.merriam-webster.com/dictionary/distinguished, accessed on November 15, 2013, a copy of which is incorporated into the record of proceeding.

establish the impact that this group has had on The materials from website, which the petitioner submitted, indicate that the company has the following competencies in addition to project management: process management, process outsourcing, strategy consulting, cost optimization, market research, procurement, brand strategy, Human Resources Management, Innovation Management, Software Solutions, Change Management and Sales Consulting. Without an explanation of the petitioner's role for as a whole, the petitioner has not provided evidence sufficient to establish that his performance for this company is qualifying under this criterion.

The regulation requires that the petitioner perform in a leading or critical role for the organization or the establishment that enjoys a distinguished reputation, not that he performed in this manner for its customers. 8 C.F.R. § 204.5(h)(3)(viii). Since Mr. letter claims the petitioner performed in a critical role for customers, it is necessary for the petitioner to submit evidence relating to these customers, to establish that these customers' organizations or establishments enjoy a distinguished reputation. While it is possible for a consultant to perform in a leading or critical role, he must provide evidence that the organization or establishment for which he consulted enjoys a distinguished reputation. He must also provide evidence establishing the manner in which he performed in a critical role for the organization or establishment for which he consulted. As the petitioner has not provided evidence relating to the organizations or establishments that Mr. referenced in his letter, the petitioner has not provided evidence sufficient to satisfy the plain language requirements of this criterion.

Within the March 24, 2011 letter from Director of Program Management at Mr. spoke highly of the petitioner, but did not describe the role the petitioner performed as a contractor for Mr. provided a description of key elements necessary for the project to be successful, but he did not indicate that it was the petitioner who was key to the success of the ongoing project. Regarding the distinguished reputation of while the petitioner submitted website printouts from the website, the petitioner failed to submit any independent, objective evidence establishing that it has a distinguished reputation pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii). *See Braga v. Poulos,* No. CV 06 5105 SJO (C. D. CA July 6, 2007) *aff'd* 317 Fed.Appx. 680 (9th Cir. 2009) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media).

The petitioner also submitted a letter from former Vice President and Director of Purchasing at in the United States. Mr. stated that the petitioner was instrumental in developing and implementing a project management improvement program and supplier management and tracking process. Mr. did not explain the importance of this program to as a whole. Further, the record lacks evidence demonstrating that in the United States enjoys a distinguished reputation.

The letter from , former President and CEO of established that the petitioner performed in a leading or in a critical role for the organization. However, the petitioner did not submit evidence relating to the organization's reputation to demonstrate its distinguished nature

in line with the regulatory requirements. The remaining letters from customers either fall short of establishing that the petitioner performed in a leading or in a critical role for the organization, did not establish the organization's distinguished reputation, or a combination of these two shortcomings.

The petitioner submitted a letter from Professor of Mechanical Engineering at Professor indicated that the university invited the petitioner to be a member of the Mechanical Engineering Department Advisory Board and to serve as Industrial Advisor for Doctoral Students Dissertation Committee. The professor also stated:

> In his role as Program Director for the implementation of Statewide Dual Education System in Michigan, [the petitioner] plays an important and crucial role and was able to integrate multiple stakeholders from industry, academic, education and government. We are also members of the steering committee on this vital educational program for the young men and women in Michigan.

While Professor indicated that the petitioner's performance may have impacted a department or division within the university, he did not indicate how the petitioner's performance as the Program Director was crucial to as a whole.

Further, language contained in some of the supporting letters is similar. The undated letter from General Manager of R&D at and the March 14, 2011 letter from contain such language. Mr. letter provided the following language (grammar as it appears in original):

> During the years . . . we had to face a complex and complicated situation . . . Due to the special needs of the organization we needed a person who was very international knowledgeable and experienced in all aspects of the project management field and fundamental experiences in different cultures. We found [the petitioner] to be an expert in all of these areas. He played a leading role with crucial impact to our success in the project management field. [The petitioner] was heavily and critical involved in the improvement initiatives and was leading the many different aspect of the concept, implementation and realization.
>
> During these activities we found [the petitioner] to be an excellent coach and advisor as well as management instructor. Without [the petitioner's] drive and input I sincerely doubt that we would have been successful with the implementation.
>
> If you have any further questions in this regard please don't hesitate to contact me directly.
>
> Best regards . . .

Mr. letter contains similar language. As a general concept, when an alien has provided affidavits from different persons that contribute to the alien's eligibility claim, but the language and structure contained within the affidavits are notably similar, the trier of fact may treat those similarities as a basis for questioning the claims of the alien. *See Surinder Singh v. Board of Immigration Appeals*, 438 F.3d 145, 148 (2d Cir. 2006). When affidavits contain such similarities, it is reasonable to infer that the alien who submitted the strikingly similar documents is the actual source from where the suspicious similarities derive. *See Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007). Because the letters appear to have been drafted by someone other than the purported authors, the letters possess little probative value. In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The petitioner also submitted a letter from Quality Analysis Manager for of America in which Mr. asserted that the petitioner performed in a critical role for the company through his international and functional expertise facilitating their project management with the corporate office as well as with its United States based dealers and customers. of America enjoys a distinguished reputation. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires evidence that the alien has performed in a leading or critical role for "organizations or establishments" in the plural, consistent with the statutory requirement for extensive documentation. *See* section 203(b)(1)(A)(i) of the Act. Therefore, this single instance of the petitioner meeting this criterion's requirements will not serve to satisfy the plain language requirements of this criterion.

As the petitioner did not submit probative evidence to meet the regulation's plural requirement, the petitioner has not submitted evidence that meets the plain language requirements of this criterion.

C. Summary

The petitioner has not satisfied the antecedent regulatory requirement of three types of evidence.

III. CONCLUSION

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 have risen to the very top of the field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. §§ 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. While the AAO concludes that the evidence is not indicative of a level of expertise consistent with the small percentage at the very top of

the field or sustained national or international acclaim, the AAO need not explain that conclusion in a final merits determination.[4] Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of three types of evidence. *Id.* at 1122.

The petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

[4] The AAO maintains de novo review of all questions of fact and law. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, the AAO maintains the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii). *See also* section 103(a)(1) of the Act; section 204(b) of the Act; DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).