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

DATE: OCT 14 2014 Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

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

ON BEHALF OF PETITIONER:

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, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

According to part 2 of the petition, the petitioner seeks classification as an "alien of extraordinary ability" in the sciences, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A).[1] According to part 6 of the petition, the proposed employment is as a pharmacist, which is the petitioner's current occupation, although the petitioner also submitted email correspondence relating to potential future employment as an analytical chemist. 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 August 29, 2013. On December 2, 2013, the director issued the petitioner a request for evidence (RFE). After receiving the petitioner's response to the RFE, the director issued his decision on April 28, 2014. On appeal, the petitioner submits a brief with additional documentary evidence. For the reasons discussed below, we uphold the director's ultimate determination that the petitioner has not established his eligibility for the classification sought.

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[1] The petitioner's cover letter requested classification as an outstanding researcher pursuant to section 203(B)(1)(b) of the Act and referenced the regulation at 8 C.F.R § 204.5(i)(3)(ii) pertaining to the three years of experience required for that classification. It is noted that a researcher may not self-petition for classification as an outstanding researcher. 8 C.F.R § 204.5(i)(1). While the subsequent submissions reference the classification the petitioner indicated on part 2 of the petition, the appellate brief references the eminence and distinction standard for the outstanding researcher classification. *See* 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)). We will review the petition under the extraordinary ability classification the petitioner indicated on the petition itself, especially as the petitioner cannot self-petition as an outstanding researcher.

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).

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 decision to deny the petition, the court took issue with the evaluation of evidence submitted to meet a given evidentiary criterion.[2] 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

[2] 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 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 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 we did)," and if the petitioner did not submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as we 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, we will review the evidence under the plain language requirements of each criterion claimed. As the petitioner did not submit qualifying evidence under at least three criteria, the proper conclusion is that the petitioner has not satisfied the regulatory requirement of three types of evidence. *Id.*

II. ANALYSIS

A. Evidentiary Criteria[3]

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, including letters and emails describing his judging duties on a peer review panel for a journal, 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 petitioner initially asserted that meets this criterion. In the RFE, the director advised that the petitioner had not demonstrated that he meets this criterion and requested additional evidence, specifically: (1) evidence that the petitioner's major significant contributions have provoked widespread public commentary in the field and are widely cited, and (2) objective documentary evidence of the significance of the petitioner's contributions in the field as a whole. In response, the petitioner no longer asserted that he meets this criterion. On appeal, the petitioner provides new evidence relating to this criterion and discusses his contributions in the context of responding to the director's analysis in the final merits determination. The petitioner further asserts that because the director found that the petitioner met three other criteria, the director erred in denying the petition based on contributions.

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

The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether the petitioner has established eligibility for the benefit sought, as of the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, we will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, he should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, we will not consider the sufficiency of the evidence submitted within this antecedent procedural step. We will however, as the petitioner does on appeal, discuss the petitioner's contributions in his field within the final merits determination. That said, the petitioner is correct that meeting the contributions criterion is not required if the petitioner meets three other criteria.

> *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, including scholarly works published in the requisite publication types, 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.*

The petitioner claimed that he performed in a critical role for four institutions. The director determined that the petitioner met the requirements of this criterion. The AAO conducts appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). For the reasons outlined below, a review of the record of proceeding does not reflect that the petitioner submitted sufficient documentary evidence establishing that he meets the plain language requirements of this criterion. The director's favorable determination on this issue is hereby withdrawn.

A leading role should be apparent by its position in the overall organizational hierarchy and by the role's matching duties. The petitioner 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."[4] 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 Dr. Associate Vice President of which employed the petitioner for one year. According to Dr. the petitioner established the company's standard operating procedures to comply with international health regulations relating to drug stability studies conducted, which remain in place today. In Dr. February 10, 2014 letter, he indicated that reported a 73% increase in profits for the 2001 financial year, in major part because of the work the petitioner performed for the company. Regarding reputation, the petitioner provided a website printout from that indicated is India's leading contract research and testing organization. The evidence relating to this organization, the petitioner's critical role for this organization, and the organization's reputation are sufficient to meet the plain language requirements of this criterion. However, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires evidence that the petitioner performed in a leading or critical role for "organizations or establishments" 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, we 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 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).

The petitioner performed in a critical role for Dr. and for developing the generic forms of popular drugs, by ensuring regulatory compliance applicable to several governing bodies, including those of the United States and European countries. These generic drugs resulted in a significant increase in profits for the companies. Regarding the distinguished reputation of Dr. , the petitioner provided the initial filing statement, an online article from moneycontrol.com, and the company's background information derived from its own

[4] *See* http://www.merriam-webster.com/dictionary/distinguished, accessed on September 30, 2014, a copy of which is incorporated into the record of proceeding.

website, drreddys.com. In reference to the assertions within the initial filing statement, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)). The online article from moneycontrol.com does not discuss this company's reputation. Instead, it describes the United States Food and Drug Administration's approval of one of the company's generic drugs. Finally, regarding the information deriving from Dr. this evidence represents the company's own promotional material. *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 a company's self-serving assertions). The petitioner did not submit any independent, objective evidence establishing that Dr. has a distinguished reputation pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii). As a result, the petitioner has not submitted evidence that this organization enjoys a distinguished reputation.

Regarding the distinguished reputation of the petitioner did not provide any evidence relating to the company's reputation. Consequently, even though the petitioner may have performed in a leading or critical role for this company, he has not submitted evidence that the organization has a distinguished reputation.

Regarding the petitioner submitted a letter and the online company profile from the company's own website. The letter from Director of Analytical Development at indicates that the petitioner was the lead analytical chemist responsible for identifying impurities in developmental drugs, and devising methods to reduce such impurities. Mr. further asserted that the petitioner's expertise was critical for the success of dozens of products manufactured by the company. However, Mr. did not provide specific information describing what result the petitioner's expertise and efforts had within the company, or how the petitioner's performance of his duties was responsible for the company's success. USCIS need not accept Mr. primarily conclusory assertions regarding the petitioner's impact on the organization. *1756, Inc. v. Att'y Gen,* 745 F. Supp. 9, 17 (D.D.C. 1990). Therefore, the petitioner has not submitted evidence demonstrating that he performed in a leading or critical role for this organization. Regarding the reputation of the company profile evidence is promotional. The petitioner did not submit any independent, objective evidence establishing that enjoys a distinguished reputation as required by the regulation at 8 C.F.R. § 204.5(h)(3)(viii). *See Braga,* No. CV 06 5105 SJO. As a result, the petitioner has not submitted evidence that this organization enjoys a distinguished reputation.

A review of the record of proceeding does not reflect that the petitioner submitted sufficient documentary evidence to establish that he meets the plain language of this criterion and the director's determination on this issue is hereby withdrawn.

B. Summary

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

C. Final Merits Determination

In accordance with the Form I-290B, Part 4 the petitioner attached a statement regarding the basis for the appeal. Within this statement, the petitioner asserts the director's sole basis for denying his petition was because he did not establish that he had made contributions of major significance in his field. The petitioner also states within the appellate brief:

> The Director in the final merits determination determined that based on [the petitioner's] peer reviews, service on an Editorial Board and his critical role for his former employers, [the petitioner] already demonstrated that he is among that small percentage that has risen to the very top of his field. The only question remaining was whether or not [the petitioner] has sustained national or international acclaim and that his achievements have been recognized in the field of expertise.

The director stated in his decision that the petitioner appeared to be in the top of the field as it relates to his judging activities under 8 C.F.R. § 204.5(h)(3)(iv) and his performance in critical roles for his former employers under 8 C.F.R. § 204.5(h)(3)(viii). However, the director provided two bases for his adverse determination. First, the director indicated that the petitioner had not demonstrated that he had made contributions of major significance in the field under 8 C.F.R. § 204.5(h)(3)(v), and that he had not demonstrated that he is among that small percentage that has risen to the top of his field. Second, although the director determined that the petitioner satisfied the authorship of scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi), he concluded that the field's minimal documented interest in the petitioner's published work demonstrated that his articles are not recognized beyond his circle of collaborators. The director closed indicating the evidence had been considered individually within the antecedent procedural step, and then as a whole within the final merits determination. He continued: "[T]he beneficiary has not reached a level of expertise indicating that he is one of that small percentage who has risen to the top of his field of endeavor."

Although within these proceedings, the petitioner has not satisfied at least three of the evidentiary criteria and a final merits determination is not required, the director's sole basis of denial was that the evidence in the aggregate did not demonstrate the petitioner's eligibility. Thus, we will review that determination. 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. In accordance with the *Kazarian* opinion, the AAO will conduct 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," 8 C.F.R. § 204.5(h)(2); 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)(3).

See Kazarian, 596 F.3d at 1119-20. For the reasons discussed below, we conclude that the petitioner has not made such a showing. Accordingly, we must dismiss the appeal.

With regard to the petitioner's judging experience under the regulation at 8 C.F.R. § 204.5(h)(3)(iv), we do not concur with the director's conclusion that the petitioner has demonstrated that his judging experience is commensurate with the small percentage that has risen to the very top of his field. The nature of the beneficiary's judging experience is a relevant consideration as to whether the evidence is indicative of the beneficiary's national or international acclaim. *See Kazarian*, 596 F.3d at 1122. The petitioner has performed a moderate amount of peer review for four journals and has performed as one of over 100 peer reviewers for which also utilizes a specialty consultants panel and an editorial board.[5]

Regarding the petitioner's experience as an editorial board member, he claims to be a member on the Editorial Board of the The petitioner submitted a printout of what appears to be an email from Dr. the Associate Editor of the journal, and a letter from Dr. Regarding the email, although the "To:" line lists an email that appears to be associated with the petitioner, the body of the email does not reflect any indication that the petitioner is its intended recipient. The email salutation lacks any intended audience stating: "ar, I welcome you in our family." The petitioner also submitted a photocopy of a letter purportedly from Dr. that also lacks any indication that the petitioner is the intended recipient. The letter's salutation states: "Dear, I welcome you in our family."[6] These documents are not probative evidence that establishes the petitioner is, or was, a member of this journal's editorial board. Even if the petitioner's evidence was sufficient to demonstrate that he is a member of this journal's editorial board, the record contains no evidence establishing the number of editors at the petitioner's level or the duties for editors at his level. For example, the petitioner submitted information about the listing an editorial board with 100 members, three associate editors and two executive editors. Moreover, some of the individuals who wrote support letters on the petitioner's behalf have served on numerous editorial boards of scientific journals, such as Dr. who has served on nine editorial boards. Thus, these authors' level of judging suggests that the petitioner's experience does not place him within the small percentage at the top of his field.

The petitioner's probative evidence of his moderate number of peer review duties for journals or pharmaceutical information services does not place him within the small percentage at the top of his field. Intermittent participation in the peer review process for scholarly journals does not automatically demonstrate that an individual has sustained national or international acclaim at the very top of his field. The record lacks evidence pre-dating the filing of the petition that sets the petitioner apart from others in his field, such as evidence that he has received and completed independent requests for review from a

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[5] is "a subscription service for pharmacists." *See* http: accessed on September 30, 2014 and incorporated into the record of proceeding.

[6] A review of the website does not reveal that the petitioner is listed as an editorial board member at any level. *See* http: accessed on September 30, 2014, which is incorporated into the record of proceeding.

substantial number of journals or conferences, served in an exclusive editorial position for a distinguished journal, or chaired a technical committee for a reputable conference. Without such evidence, the petitioner has not established that he is among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

With regard to the authorship of scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi), we agree with the director's conclusion that although the petitioner met the plain language requirements of this criterion, the evidence is not indicative of or commensurate with sustained national or international acclaim. Pursuant to the reasoning in *Kazarian,* 596 F.3d at 1122, the field's response to these articles may be and will be considered in a final merits determination. Within the initial petition filing, the petitioner submitted evidence of nine of his scholarly articles. Nonetheless, the authors of the expert letters have published up to nine times more scholarly articles and papers than the petitioner. This information shows that the experts that the petitioner solicited reference letters from have a more active journal experience than the petitioner. As such, the petitioner's publication record is not indicative of or consistent with sustained national or international acclaim or status among the small percentage at the top of the field.

More significantly, the petitioner has not documented the impact of these articles in the field, a valid consideration. *Id.* On appeal the petitioner contests the director's determination that the low number of citations his work has garnered is an indicator that the petitioner is not one of that small percentage that has risen to the top of his field. In support of the petitioner's contention, he asserts that research "in the areas of [redacted] all have low or no citations. Therefore, in this area of research, the citation alone should not be a measure of a researcher's national/international acclaim." The evidence in support of this assertion is an undated printout from Google Scholar utilizing the following phrase placed in quotes in the Google Scholar search engine, [redacted] The use of quotes limits the response to published articles that contain this exact phrase and does not represent the wider topic of pharmaceutical research in this area. The phrase in the quote is also the partial title of one of the petitioner's published scholarly works. Therefore, the petitioner has not sufficiently supported his assertion that scholarly works in his area of research receive very few citations. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici,* 22 I&N Dec. at 165. As such, the petitioner's publication record is not indicative of or consistent with sustained national or international acclaim or status among the small percentage at the top of the field.

With regard to the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v), the petitioner correctly asserts that an inability to meet this criterion does not preclude eligibility where a petitioner meets three different criteria. To the extent that the petitioner continues to discuss his contributions, however, we will address that evidence here. The level at which the petitioner's contributions have impacted his field, as a whole, is the determining factor as to whether his contributions are commensurate with one who is among that small percentage who has risen to the very top of the field of endeavor and has sustained national or international acclaim at such an elevated level. *See* 8 C.F.R. § 204.5(h)(2). In the initial filing, the petitioner claimed he has made contributions of major significance in his field in the academic arena and in the industry as a whole. Within academia,

he claims his impact is to research projects, research teams, and through scholarly publications. As supporting evidence, the petitioner submits letters from coauthors. The petitioner's contributions to research projects and teams with which he has collaborated does not demonstrate contributions in the field at a level indicative of or commensurate with sustained national or international acclaim. As discussed above, the petitioner's publication record is not indicative of his status among the small percentage at the top of his field..

Within the industry, the petitioner claims his impact in the field is through other researchers seeking out his expertise, which is also related to his method development, data validation, and regulatory compliance. As previously noted, the industry as a whole has not recognized and adopted the petitioner's methods and validation models as original and applicable to the industry as a whole, and therefore, he has not demonstrated that his method development or data validation is a contribution in the field as a whole. Nor did the petitioner establish that his ability to meet international regulatory compliance is somehow revolutionary or applicable to the field as a whole such that a significant number of companies have already implemented his methods. While several expert letters describe how the petitioner's contributions were critical to individual companies, he has not demonstrated such a contribution in his field. On appeal, the petitioner also claims developments that are in the "drug development pipeline" and will benefit a number of patients. The plain meaning of the regulatory language proposes that an alien of "extraordinary ability" is an individual who has already reached the very top of the field of endeavor, not those who are progressing upward or those who show promise of reaching that level of achievement. *See* 8 C.F.R. § 204.5(h)(2). Without demonstrating significant measurable impacts on the petitioner's entire field, he cannot demonstrate that he has achieved a level of expertise indicative of a finding that the petitioner is one of that small percentage who have risen to the very top of his field.

Regarding the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(viii), the petitioner has demonstrated that he performed in a critical role for one organization in his field and that this organization has a distinguished reputation. Although the petitioner demonstrated that he performed in a leading or critical role for two other companies, he did not establish that either enjoys a distinguished reputation. The petitioner's references include an associate vice president, a Director of Analytical Development, a Head of the Department of Pharmaceutical Analysis & Quality Assurance, a Senior Manager of Global Regulatory Affairs, a Director of Regulatory Affairs and a Managing Director. The documentation the petitioner submits pertaining to his critical roles, only one of which is for an organization with a documented distinguished reputation, is not indicative of or consistent with sustained national acclaim or a level of expertise indicating that he is one of that small percentage who have risen to the very top of his field.

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.

A review of the evidence in the aggregate, however, does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field of pharmaceutical research. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his 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 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.