The Petitioner, a cloud management platform business, seeks to classify the Beneficiary, a computer networking scientist, as an individual of extraordinary ability. See Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that while the Beneficiary satisfied at least three of the ten initial evidentiary criteria for this classification, as required, the Petitioner did not establish his sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of his field of endeavor.

On appeal, the Petitioner argues that the Director did not properly consider and weigh the totality of the evidence in the final merits determination and maintains that the record establishes the Beneficiary’s eligibility for classification as an individual of extraordinary ability.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. See Section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability 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
The alien’s entry into the United States will substantially benefit prospectively the United States.

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.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate a beneficiary’s sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a beneficiary meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. See Kazarian v. USCIS, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); see also Visinscaia v. Beers, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); Rijal v. USCIS, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” Matter of Chawathe, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Beneficiary is a computer scientist whose research focuses on networking and Internet technologies. The Petitioner currently employs him in the position of Founding/Principal Engineer.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must show that the Beneficiary satisfies at least three of the ten alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Beneficiary met four of these criteria, specifically:

1. (iv), Participation as a judge of the work of others;
2. (v), Original contributions of major significance;
3. (vi), Authorship of scholarly articles; and
4. (ix), High salary or other significantly high remuneration.

1 The Petitioner has not contested the Director’s determination that the Beneficiary’s presentations at industry conferences in the computer science and engineering field cannot be accepted as comparable evidence under the criterion relating to display at artistic exhibitions and showcases at 8 C.F.R. § 204.5(h)(3)(vii). We will consider the Beneficiary’s conference presentations and speaking engagements in our final merits discussion below.
The Petitioner provided evidence of the Beneficiary’s peer review of manuscripts for journals and conferences, which constitutes participation as a judge of the work of others in the same or allied field under 8 C.F.R. § 204.5(h)(3)(iv). The Beneficiary has written scholarly articles in his field published in professional publications including scientific journals and conference proceedings, under 8 C.F.R. § 204.5(h)(3)(vi). Further, the Petitioner provided evidence of the Beneficiary’s past earnings and other remuneration accompanied by comparative data sufficient to establish that he has commanded a high salary consistent with 8 C.F.R. § 204.5(h)(3)(ix).

The Director also determined that the Beneficiary had made original scientific contributions of major significance in the field under 8 C.F.R. § 204.5(h)(3)(v). Initially, the Petitioner submitted seven expert opinion letters discussing the Beneficiary’s research, as well as copies of issued and pending patents listing him as inventor, and his Google Scholar publication and citation record. In a request for evidence (RFE), the Director discussed this evidence and advised the Petitioner it did not establish that the Beneficiary’s contributions are of major significance in his field.

In response to the RFE, the Petitioner provided a letter from a principal network architect at a principal network architect at discussing patented technology invented by the Beneficiary during his tenure at noting that the sum of the Beneficiary’s contributions is “the network architecture” which he notes gave the company “a significant competitive advantage relative to industry peers.” With respect to the impact or influence or impact of the Beneficiary’s contributions in the wider field beyond’s operations, notes that “[b]oth have iterated and improved upon the core ideas behind’s routing software” while “[o]perators such as are currently experimenting with in-house load balancers which borrow from the design of load balancing software’. He also states that the Beneficiary’s work has “advanced the state of network equipment and protocols,” noting that ’s network architecture is influencing the standardization of new protocols such as QUIC – the upcoming replacement for the ubiquitous Transmission Control Protocol (TCP)” and that “the future of the Internet is being designed around the properties of the network we operate at” acknowledged that his statements regarding the significance of the Beneficiary’s work “may appear anecdotal,” but noted that objective measures such as a citation count would be a poor measure of the impact of the Petitioner’s work since he works in the private sector.

The Director reviewed ’s letter and concluded that the Beneficiary had satisfied the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v) but determined that the record did not establish how those contributions have resulted in his national or international acclaim. On appeal, the Petitioner nevertheless maintains that the Director overlooked the major significance and impact of the Beneficiary’s contributions. We note that, as with all the regulatory criteria, satisfaction of this criterion does not establish eligibility or create a presumption of sustained acclaim.

On appeal, the Petitioner also makes a new claim that the Beneficiary meets the criterion relating to performance in a critical role for an organization with a distinguished reputation under 8 C.F.R. § 204.5(h)(3)(viii), based on his employment with. Because the Petitioner has established that the Beneficiary meets at least three evidentiary criteria, he has satisfied the initial evidence requirements, and we need not consider whether he meets the additional criterion as asserted in the appeal brief. Rather, we will consider the evidence submitted in support of this criterion, together with the balance of the evidence in the record, to determine whether the Beneficiary possesses the
level of sustained acclaim and standing in his field to establish his eligibility as an alien of extraordinary ability.

B. Final Merits Determination

As the Petitioner submitted the requisite initial evidence, we will evaluate whether it has established demonstrated, by a preponderance of the evidence, the Beneficiary's sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a beneficiary’s accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. See section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); see also Kazarian, 596 F.3d at 1119-20. In this matter, we determine that the Petitioner has not demonstrated the Beneficiary's eligibility.

The record reflects that the Beneficiary received his undergraduate and master of science degrees in electronic and computer engineering at the University in Portugal in 2007 and 2008, respectively. He received his doctor of philosophy in electronic and electrical engineering from University in 2013. The Beneficiary's curriculum vitae reflects that he served as a visiting research engineer at the National Institute of in Japan in 2011, participated in a and, from 2013 to 2018, was employed by . As noted, the Petitioner currently employs the Beneficiary as a founding/principal engineer. The record reflects that the Beneficiary judged the work of others within his field, authored scholarly articles, contributed to his field through his research and inventions, and earned a high salary in relation to others. The record, however, does not demonstrate that his achievements are reflective of a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

Regarding his service as a judge of others, an evaluation of the significance of his experience is appropriate to determine if such evidence is indicative of the extraordinary ability required for this highly restrictive classification. See Kazarian, 596 F. 3d at 1121-22. The Petitioner provided evidence that the Beneficiary was invited to review manuscripts for approximately eight journals and engineering conferences between 2010 and 2013, along with evidence that he completed two reviews, for the Journal of Internet Engineering and the 2011 Student Workshop. Invitations to participate in the peer review process do not automatically demonstrate that an individual has sustained national or international acclaim at the very top of their field.

Here, the Petitioner has not submitted evidence to establish the significance of the manuscript reviews performed by the Beneficiary while he was in graduate school. The Petitioner did not show, for example, how the number of reviews he conducted or the number of journals and conferences he served compares to others at the top of the field. Further, it did not submit evidence from the conference organizers and journal publishers to establish how they select peer reviewers. Several of

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2 See also USCIS Policy Memorandum PM 602-0005.1, Evaluation of Evidence Submitted with Certain Form I-140 Petitions: Revisions to the Adjudicator’s Field Manual (AFM) Chapter 22.2, AFM Update ADI1-14 4 (Dec. 22, 2010), https://www.uscis.gov/policymanual/HTML/PolicyManual.html (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).
the peer review invitations were assigned to the Beneficiary by others in his department at University
[redacted] and not by editorial boards or conference organizers. While some of the submitted
invitations mention that the Beneficiary was identified as a peer reviewer for an article because it falls
within his area of expertise, this does not equate to a finding that he was invited as a reviewer based
on his acclaim in his field.

Without evidence that sets the Beneficiary apart from others in his field, such as evidence that he has
a consistent history of completing a substantial number of review requests relative to others, served in
editorial positions for distinguished journals or publications, or chaired technical committees for
reputable conferences, the Petitioner has not established that the Beneficiary’s peer review experience
places him among that small percentage at the very top of the field of endeavor. See 8 C.F.R.
§ 204.5(h)(2).

Likewise, publication of a beneficiary’s research does not automatically place them at the top of the
field. Here, the Petitioner presented evidence showing that the Beneficiary had authored two articles
in professional journals and approximately 20 publications at conferences and symposia at the time it
filed his petition. However, the Petitioner has not demonstrated that this publication record is
consistent with having a “career of acclaimed work.” H.R. Rep. No. at 59. The Petitioner did not
provide evidence differentiating the Beneficiary’s publication record from those of others in his field,
or otherwise establishing that it is reflective of one who is among the small percentage at the very top
of her field of endeavor. See 8 C.F.R. § 204.5(h)(2).

As authoring scholarly articles is often inherent to the work of scientists and researchers, the citation
history or other evidence of the influence of the Beneficiary’s articles can be an indicator to determine
the impact and recognition that his work has had on the field and whether such influence has been
sustained. For example, numerous independent citations for articles authored by the Beneficiary may
provide solid evidence that his work has been recognized and that other researchers have been
influenced by it. Such an analysis at the final merits determination stage is appropriate pursuant to
Kazarian, 596 F. 3d at 1122.

Here, the Petitioner initially provided evidence reflecting that the Beneficiary’s journal articles and
conference papers and presentations, published between 2007 and 2018, have collectively been cited
189 times. The Director noted that the Petitioner did not provide evidence that would allow a
comparison between the Beneficiary’s citations with those of others in the same field, including those
who are recognized as being at the top of the field. While the Beneficiary’s citations, both individually
and collectively, show that field has noticed his work, we agree that the Petitioner has not established
that such rates of citation are sufficient to demonstrate a level of interest commensurate with sustained
national or international acclaim. See section 203(b)(1)(A) of the Act. Moreover, the Petitioner has
not shown that the citations to the Beneficiary’s research represent attention at a level consistent with
being among small percentage at the very top of his field. See 8 C.F.R. § 204.5(h)(2).

On appeal, the Petitioner asserts that “nowhere in the regulatory criteria is it required that citations in
excess of the number that [the Beneficiary] has be used to demonstrate sustained acclaim and
recognition in the field.” However, the Director did not impose a requirement that the Beneficiary
have a certain number of citations; rather, he noted a lack of contextual data that would allow USCIS
to compare his publication and citation record to that of others publishing work in the same field. Again, such a comparison is appropriate in the final merits determination.  

We have also considered the Petitioner’s claims that the Beneficiary’s publication and citation record are not the best indicators of his recognition in the field, since he left academia to commence employment as an engineer with [redacted] after completing his Ph.D. in 2013. Specifically, [redacted] states that “it is often difficult . . . to quantify the significance of any engineer’s work,” noting that the Beneficiary’s “citation count is a poor measure of his work, since he has not been employed as a researcher, in an academic role, or as a liaison to a standards body.” The record reflects that most of the Beneficiary’s papers were published while he was still a graduate student. As noted by [redacted] the Beneficiary’s work “was primarily directed inwards at [redacted] where he incorporated his research into patents that became part of his employer’s intellectual property. His transition to an engineering role in the private sector may reasonably account for a lack of publications following completion of his doctoral studies but would not reasonably account for a lack of ongoing citations to his body of published work. As such, it is unclear why the Beneficiary’s citation count would be a “poor measure” of the recognition he received for his earlier research.

On appeal, the Petitioner emphasizes that the contributions the Beneficiary made during his academic career contribute to his “sustained acclaim and recognition” in the field. However, the Petitioner does not address the lack of evidence demonstrating that this published academic work was widely cited, and instead emphasizes that the Director overlooked letters from experts who are aware of the Beneficiary’s publications and presentations at various conferences and can attest to the impact of his academic research in the field.

For example, [redacted] a computer science professor at [redacted] University, discusses the Beneficiary’s study titled [redacted] published in the 2014 IEEE [redacted]. She notes that her own research team designed new experiments informed by the Beneficiary’s work and states that it is relevant to “any practitioner in research or industry who wants to understand how to speed up the Internet, improve its fairness or analyze its performance.” [redacted] the Beneficiary’s Ph.D. supervisor at [redacted] highlights this IEEE [redacted] paper and other “excellent-quality publications” the Beneficiary produced during his graduate studies, noting that he “was mightily impressed with the breadth and depth of his outstanding research work and its potential impact on future Internet architecture and design.” [redacted] a professor at the [redacted] states that the Petitioner’s analysis of the TCP protocol, published in the referenced IEEE [redacted] paper was “particularly dazzling” and is expected to “have a profound impact on the way [Internet] providers should plan for capacity provisioning.” Finally, [redacted] a data scientist at [redacted] states that the Petitioner’s research published in IFIP Networking and IEEE [redacted] has been used within her company to optimize content delivery.

These letters praise the Beneficiary’s graduate research conducted at [redacted] and its potential impacts, but they are not sufficient to demonstrate the conference papers and presentations resulted in his

See USCIS Policy Memorandum PM 602-0005.1, supra, at 13 (stating that “the alien’s publications should be evaluated to determine whether they were indicative of the alien being one of the small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim”).

While we do not discuss every submitted letter below, we have reviewed and considered each one.
national or international acclaim. Further, although the letters note that the Petitioner was invited to deliver presentations at prestigious conferences in the field as a doctoral student, they do not indicate that such invitations are reserved for those who have achieve the level of acclaim required for this highly restrictive classification. The Petitioner correctly notes that USCIS should take into account the probative analysis that experts in the field may provide in opinion letters regarding the significance of a beneficiary’s contributions. But the issue in the final merits analysis is not whether the Beneficiary has made original contributions that have impacted the field, but whether such contributions have garnered him sustained acclaim. The record reflects that the Director reviewed the testimonial evidence relating to the Beneficiary’s achievements in academia and industry, along with his publication record and patents, and determined that the Beneficiary satisfied the original contributions criterion.

However, the referenced letters do not directly address the Beneficiary’s recognition in the field and are not supported by sufficient evidence of his sustained acclaim. For example, several letters discuss the Beneficiary’s paper published in IEEE in 2014, but the record reflects that this publication had been cited only twice by other researchers as of the date of filing in 2019 and does not show that he has received wide recognition for this work. Because the record lacks objective evidence to establish the recognition the Beneficiary received for his work, these letters are insufficient to show that he is among “that small percentage who [has] risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). In addition, the commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act 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).

With respect to the Beneficiary’s more recent achievements with the Petitioner submitted evidence that he was the sole inventor listed on five patents assigned to the company and on several other pending patents, all pertaining to the technology. The Petitioner also provided letters from company representatives attesting to the Beneficiary’s significant contributions to the company’s core intellectual property, and the importance of that intellectual property in fueling the company’s rapid growth, as well as evidence that he was highly compensated with a salary that placed him among the top 10% of earners in his field. The record supports the Director’s finding that the Beneficiary made original contributions and earned a high salary and also supports the Petitioner’s claim that he held a critical role with the company, which, based on the evidence submitted, enjoys a distinguished reputation in its industry. The letters from representatives indicate that the company’s technology, while protected by patent, has influenced other network operators. For example, notes that the company’s network architecture “has been emulated by large industry peers” such as ...

On appeal, the Petitioner focuses primarily on the importance of the contributions the Beneficiary has made without addressing the resulting acclaim or recognition he has received. For example, the Petitioner highlights portions of the Beneficiary’s letter, noting that “is recognized as an innovator amongst its industrial peers . . . and a large part of that recognition hinges on [the Beneficiary’s] work.” However, a contribution is not synonymous with acclaim for the people behind it. Otherwise, the regulations would not require evidence of acclaim beyond those contributions. We must examine all the evidence, to determine whether it converges toward an overall finding that the
Beneficiary has garnered sustained national or international acclaim in this field. In this case, the record lacks evidence that the recognition that [ ] has received for innovative technologies that are built, in part, on the Beneficiary’s contributions, has resulted in a similar level of recognition for the Beneficiary. [ ]’s detailed statement is persuasive in establishing that the Beneficiary’s work was critical to [ ]’s success, but less so in demonstrating that his role with the company translated to the level of individual national or international acclaim required for this classification.

[ ] Chief Technology Officer [ ] states that the Petitioner was already “well known in technology circles” as “a pioneer opening new pathways in the measurement, analysis, and design of the Internet” when he was hired in 2013. However, as discussed above, the record does not otherwise demonstrate that the Beneficiary had achieved national or international acclaim as a result of his research as a doctoral student. With respect to the external recognition he received while working at [ ], [ ] references an article published by the Beneficiary on the company’s engineering blog, noting that it is among the company’s most widely read posts and “helped draw engineering talent to [ ]” while another one of his blogs was “cited by Google as a blueprint for their own [ ].” The record does not contain any additional evidence related to these blog articles, their readership, or resulting citations to establish that the Beneficiary garnered a level of recognition commensurate with national acclaim as a result of their publication.

[ ] also highlights the fact that the Beneficiary’s work on load balancing, conducted at [ ], was published at the Symposium on Networked Systems Design and Implementation (NSDI), which he describes as a “leading academic conference.” [ ] mentioned in his letter that most publications accepted by NSDI from industry “are sourced from dedicated research teams from the largest companies in the world such as [ ].” He stated that the fact that NSDI accepted the Beneficiary’s work “developed outside a traditional research context and at a relatively early stage company, speaks to its uniqueness.” [ ] states in her letter that she was present for the Beneficiary’s presentation at NSDI, noting that it was “impressive,” because the research “showed the promise to ‘scale’ or grow Internet services to serve a larger volume of users” and because of his willingness to share his experience from the networking industry with the research community.

Based on these letters, the acceptance of the Beneficiary’s work at the NSDI symposium is a notable achievement for an engineering professional at a smaller company. However, the record does not establish that his presentation was accepted by NSDI due to his acclaim in the field, or that his presentation garnered him national or international acclaim. The Beneficiary’s Google Scholar citation record shows that his co-authored paper [ ] was published at NSDI in 2018 and had been cited by others six times, but this evidence does not support a finding that he received wide recognition for the presentation.

The Petitioner asserts that, because the Beneficiary’s work at [ ] was primarily directed inwards, we should look to [ ]’s exponential growth as a measure of the Beneficiary’s acclaim, noting that he “grew a small start-up cloud platform provider . . . into a publicly traded company with a $2 billion market valuation.” In his letter [ ] stated that the best measure of the significance of the Beneficiary’s work would be to “quantify[] the impact of his patents.” In this regard, he noted that [ ]’s S-1 filing to the Securities and Exchange Commission discusses the business value of the company’s “software-defined modern network” of which the Beneficiary was a primary architect. He
states that “[i]f a two billion dollar market capitalization in the span of eight years is of major significance, and key component of that success hinges on [Beneficiary’s] network, and the core of that technology is a product of [the Beneficiary’s] vision, then it should follow that [his] work is of major significance.” As noted above, however, the issue at the final merits stage is not whether the Beneficiary made a significant contribution or whether he served in a critical role with his employer. The Petitioner must also establish that the Beneficiary himself has garnered sustained national or international acclaim based on these achievements and that those achievements have been recognized in the field through extensive documentation. See section 203(b)(1)(i) of the Act.

The Petitioner also emphasizes that the Director failed to discuss the Beneficiary’s high salary in his final merits determination, despite concluding that the Petitioner submitted evidence that meets the criterion at 8 C.F.R. § 204.5(h)(3)(ix). The Petitioner asserts that the evidence establishes that the Beneficiary is “one of the highest paid scientists working in the field” and that the evidence “amply shows his sustained acclaim and recognition field wide.” The Petitioner provided the Beneficiary’s IRS Form W-2 wage statements for 2017 and 2018 indicating that his annual earnings were $185,000 and $174,276, respectively. The Petitioner also provided a May 2018 Occupational Employment and Wage report for “Computer and Information Scientists” from the U.S. Department of Labor indicating that the estimated 90th percentile wage for this occupation is United States is $183,820, thus placing the Beneficiary’s wages in the top 10% based on this nationwide estimate. While the Beneficiary’s salary may reflect a degree of recognition of his achievements in the field, he has not submitted evidence showing his earnings are at a level reflecting that he is one of the small percentage who has risen to the top of the field.

In addition to his salary records, the Petitioner submitted evidence that the Beneficiary is the owner of 142,708 shares of common stock issued to him in January 2019, along with copies of the 2011 Equity Incentive Plan and Option Agreement, and copies of the Beneficiary’s stock option grant notices giving him the option to purchase up to 150,000 shares. The Petitioner stated that the stock the Beneficiary purchased is worth “approximately $3.8 million” and “is particularly representative of [the Beneficiary’s] extraordinary ability in the field . . . as not only was he remunerated with company equity for his remarkable performance at [Beneficiary’s company] but the reason that the shares themselves are so valuable is in large part due to [his] scientific contributions of major significance while at the company.” However, the record does not reflect that gave him an additional $3.8 million in remuneration in addition to his salary; he was given the right to purchase stock at a reduced price as a benefit of working for the company. The record does not contain evidence that participation in the company’s Equity Incentive Plan was only available to employees whose performance is “remarkable” as there is no explanation or evidence regarding the number of employees who participate or the number of stock options other employees were granted.

As noted, the record contains eight recommendation letters that summarize different aspects of the Beneficiary’s research and original contributions. However, these letters do not demonstrate that he is among that small percentage at the very top of his field of endeavor or that he has sustained national or international acclaim. As noted, the letters demonstrate the significance of some of the Beneficiary’s original contributions, but they are less persuasive in demonstrating that the Beneficiary has received the requisite acclaim for those contributions. Some of the authors make general assertions repeating the statute and regulations. For instance, states his belief that the Beneficiary “is one of a very small number of people who have risen to the very top of the field,” noting that if the
Beneficiary “does not qualify as having extraordinary ability in the field of computer networking on the basis of his achievements over the last decade, I don’t not know of anyone in similar circumstances who does.” Similarly, states that the Beneficiary “is one of the top Computer Network Scientists working in the field today” and describes him as “a leading expert on network measurements, accountability, resilience, and efficiency.” notes the Beneficiary’s “proven track record of significant achievements in the computer networking field” and notes that the Beneficiary “has a proven track record of creative foundational research with worldwide visibility in his field.”

Although the letters recount the Beneficiary’s research and explain its significance, they do not explain or justify their assertions that he already recognized in the field at a level commensurate with sustained national or international acclaim. 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.). Here, the letters do not provide sufficient information and explanation, nor does the record include sufficient corroborating evidence, to show that the Petitioner is viewed by the overall field, rather than by a solicited few, as being among that small percentage at the very top of the field of endeavor. See 8 C.F.R. § 204.5(h)(2). The statute demands “extensive documentation” of recognition. Section 203(b)(1)(A)(i) of the Act.

Overall, the Petitioner’s arguments on appeal focus mainly on the Beneficiary’s original contributions of major significance, and we do not question those contributions here; however, the issue is whether recognition of the Beneficiary’s contributions has risen to the level of sustained national or international acclaim that has elevated the Petitioner to the very top of his field. The Petitioner has shown that his work, particularly his work with is important with many practical implications in his field, but not that it has earned him the required sustained acclaim.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. U.S. Citizenship and Immigration Services has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. Matter of Price, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of the Beneficiary’s work to date is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Beneficiary has garnered national or international acclaim in the field, and that he is one of the small percentage who has risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

C. O-1 Nonimmigrant Classification

We note that the record reflects that the Beneficiary received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Beneficiary, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard - statute, regulations, and case law. Many Form 1-140 immigrant petitions are denied after USCIS approves
prior nonimmigrant petitions. See, e.g., Q Data Consulting, Inc. v. INS, 293 F. Supp. 2d 25 (D.D.C. 2003); IKEA US v. US Dept. of Justice, 48 F. Supp. 2d 22 (D.D.C. 1999); 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). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. Louisiana Philharmonic Orchestra v. INS, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated the Beneficiary’s eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.