



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28819177

Date: NOV. 28, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, who runs a business that manufactures and sells printing equipment, seeks classification 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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. These individuals must seek to enter the United States to continue work in the area of extraordinary ability, and their entry into the United States will substantially benefit 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 international recognition of their achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence that meets at least three of the ten criteria 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. If those standards

do not readily apply to the individual's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we 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).

II. ANALYSIS

The Petitioner states that her “main research field is printing and packaging, with an emphasis on UV-LED [ultraviolet light-emitting diode] printing technology. . . . Since 2006, the petitioner has served as the general manager of [REDACTED] a well-known enterprise [in China] that specializes in R&D, production and sales of printing press related equipment.” The Petitioner plans “to establish a company specializing in UV-LED curing technology,” using some of the technology that she has invented and patented.

The Petitioner asserts on appeal that the Director did not adequately explain why the Petitioner's evidence was not sufficient to meet her burden of proof. Below, we will address the Petitioner's evidence and arguments in greater detail.

Because the Petitioner has not indicated or shown that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claims to have satisfied six of these criteria, summarized below:

- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the individual in professional or major media;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

The Director concluded that the Petitioner met only one criterion, relating to authorship of scholarly articles. On appeal, the Petitioner maintains that she also meets the other five claimed criteria.

Upon review of the record, we agree with the Director that the Petitioner has satisfied the criterion relating to scholarly articles. We also conclude that she has satisfied the third numbered criterion, relating to published material about the individual. We will discuss the other claimed criteria below.

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.
8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner claims to satisfy this criterion as “the Chief Expert Member of [REDACTED] [REDACTED]” (GPA). The GPA’s vice president stated in a letter: “we require members of the expert database to have excellent attainments,” and that the Petitioner “became the Chief Expert because of her outstanding professional knowledge and industry reputation in the research and application of UV-LED printing technology.”

The record does not directly establish that the Petitioner is a member of the GPA. A translated certificate from the GPA refers to the Petitioner’s one-year “appointment” as “the Chief Expert of the UV process technology category.” A translated “Notice on Calling for Expert Members” states that, in order to “implement the innovation-driven strategy implemented by the party and the state,” the GPA was “calling for [REDACTED] printing industry experts from relevant organizations in the province.” The documents do not indicate that “Expert” is a class of membership in the GPA, or that the “expert database” is an association in its own right, rather than an advisory body for the GPA. (The word “member” in the translated document refers to membership in the “expert database,” rather than membership in the GPA.) The materials describe an appointed position with several listed responsibilities. A separate criterion at 8 C.F.R. § 204.5(h)(3)(viii) addresses a person’s *role* within an organization.

The Petitioner submitted a copy of a certificate designating her appointment as a chief expert, but no certificate of membership or comparable documentation identifying her as a member of the GPA. The vice president’s letter refers to the Petitioner as a “consultant expert of our association” but does not specify that the Petitioner is a member of the GPA. The record does not establish that the GPA’s membership consists of individuals (such as the Petitioner) rather than companies (such as [REDACTED]). The vice president’s letter indicates that “[REDACTED] Group is a council member of the [REDACTED] [REDACTED]” and refers to “printing companies” as “members” “of the association.”

Other submitted materials are consistent with the conclusion that the GPA’s members are organizations rather than individuals. An “Introduction to [REDACTED]” states that the GPA consists of “printing enterprises, reproduction enterprises, printing equipment and other production and operation organizations, and printing research and education institutions in [REDACTED]” Published reports about meetings of the GPA’s member congress refer to attendees not as members, but as “member representatives.”

In a request for evidence (RFE), the Director stated that the Petitioner’s initial evidence did not satisfy the requirements of the criterion. The Director stated that the Petitioner “may submit” sections of the GPA’s “constitution or bylaws which discuss the criteria for membership for the beneficiary’s level of membership in the association” and “the qualifications required of the reviewers on the review panel of the association.”

The Petitioner’s response to the RFE included a translation of the GPA’s by-laws, which state “[m]embers of the association are collective members.” This is consistent with GPA being an association of organizations, rather than individual members. The Petitioner acknowledged this information but attempted to minimize its significance, stating:

[D]ue to the evolving nature of the association and its continuous adaptation of its organizational structure and membership categories, the constitution may not always

reflect the current situation in a prompt and comprehensive manner. For example, the [redacted] constitution only mentions its collective members. Subsequent changes to the association's structure are often communicated through other official documents of the association.

The Petitioner did not submit any other official association documents to reflect such a change. The unsubstantiated assertions contained in the brief are not evidence and are not entitled to any evidentiary weight. *See Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998). Even then, the Petitioner did not specifically claim that the GPA had, in fact, changed its membership structure. The Petitioner offered only the general, speculative assertion that the GPA's governing documents "may not always" be up-to-date. The GPA's by-laws do not establish individual membership, and the Petitioner has not submitted evidence of equal or greater weight to establish that the published by-laws have been superseded. The article discussing the attendance of "member representatives" at a GPA meeting dates from August 2022, which was less than two months before the Petitioner filed the petition.

In the denial notice, the Director determined that the Petitioner had not submitted evidence such as "the association's constitution or bylaws which discuss the criteria for membership of the beneficiary's level of membership in the association." The Director concluded that, without such evidence, the Petitioner had not established that her membership in the GPA meets the regulatory requirements.

On appeal, the Petitioner cites previously submitted evidence and maintains that her chief expert appointment is a qualifying membership. For the reasons discussed above, the Petitioner has not established that this appointment is a membership category. The record as a whole indicates that GPA memberships are institutional rather than individual. The Petitioner has not submitted documentary evidence to rebut this conclusion, and, therefore, has not established that she meets this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner initially stated that she "has applied for at least thirteen patents and eight computer software copyrights," and that her "commitment to innovation has significantly impacted China's printing and packaging industry." The Petitioner asserted that she has contributed "to the R&D [research and development] and promotion of new UV-LED printing equipment" and "promoting energy conservation and environmental protection in [the] printing and packaging industry."

Evidence that the person's work was patented, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance to the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policy-manual>. But evidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field. *Id.*

The Petitioner relies heavily on a letter from the dean of the School of Printing and Packaging Engineering at the [redacted] Institute of Graphic Communication. Such letters may provide valuable context, but they have less weight if they lack documentary corroboration. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The dean provided background information about UV-LED printing, stating, for instance,

that the technique allows for faster ink drying without the use of harmful solvents. Regarding the Petitioner's work in particular, the dean stated:

UV-LED light source curing technology has not been able to achieve large-scale commercial applications for a long time.

To solve the above industry problem, [the Petitioner] and her team developed an LED device . . . for curing traditional UV ink, which can instantly cure traditional UV or LED ink.

The dean listed various advantages of UV-LED printing “[c]ompared with traditional printing,” but did not specify how many of these benefits originated with the Petitioner's work. Entirely new technology, or substantial improvements to existing technology, would tend to have greater significance than incremental improvements to technology that is already available. Technical details about the Petitioner's patents, such as the assertion that “the power supply controls the average voltage output by the thyristor, thereby adjusting the voltage at both ends of the UV lamp to achieve the purpose of dimming,” are not self-explanatory with regard to their significance.

The dean stated:

[The Petitioner's] patented technology has undoubtedly achieved success in the printing and packaging industry and attracted wide attention. Many internationally renowned printing press manufacturers . . . were very interested in the advanced and stable performance of [redacted] UV-LED device and are willing to open their rights in the matching of this offset press, giving priority to using UV and LED curing systems of [redacted]. . . [The Petitioner] is one of the pioneers in improving the printing and packaging industry for energy saving and environmental protection.

The record, however, lacks documentary evidence to corroborate these general assertions and provide more specific information.

The [redacted] recognized one of [redacted] patented products as “a high-tech product.” Information from the certifying entity states that, to qualify for certification, a product must have “great market potential, excellent economic, social and environmental benefits, and meet[] the requirements of sustainable development.” The Petitioner did not establish that this certification meets the regulatory requirement at 8 C.F.R. § 204.5(h)(3)(v), which requires “major significance in the field.”

The Petitioner submitted documentation identifying five customers that had purchased equipment from [redacted] between 2013 and 2022. The Petitioner did not establish that these sales constitute significant attention or commercialization at a level that indicates major significance. Also, it is not clear how much of this equipment is the Petitioner's own patented technology. A manufacturer in New Jersey stated that [redacted] “has helped sell our UV curing lamps to [customers in] mainland China.”

Published articles in the record describe the advantages of [redacted] technology, but as noted above, the promotional tone of these articles raises questions about their objectivity. One of these articles indicates

that “[redacted] UV-LED technology has taken the lead in achieving wide application in the industry,” but that article and others primarily discuss [redacted] contracts with the same five customers.

In the RFE, the Director asked for “independent objective evidence” to establish the major significance of the Petitioner’s original contributions. The Petitioner’s response to the RFE largely repeated the Petitioner’s initial statement with minimal revisions, and cited prior submissions.

In the denial notice, the Director acknowledged the documentation of patents in the record, but concluded that the Petitioner had not submitted “independent and objective evidence” of the significance of her original contributions.

On appeal, the Petitioner asserts that “the petitioner’s patented technology and products are purchased and used by one of the leading enterprises in China’s printing machinery manufacturing field.” The use of the Petitioner’s inventions by a major client contributes to [redacted] commercial performance, but does not necessarily show that those inventions are of major significance in the field (as opposed to benefiting [redacted] and individual customers).

Much of the evidence cited in the petition and on appeal attests to the overall benefits of UV-LED printing technology. For example, a submitted article states: “the overall market size of UV-LED printing has exceeded RMB 2 billion in 2021.” But the record does not show that the Petitioner invented UV-LED printing, or made significant, widely-adopted enhancements to the technology. Statistics about the economic and environmental benefits of the entire UV-LED printing industry do not establish the significance of the Petitioner’s specific contributions to that industry.

The Petitioner has established that she has made original contributions in her field, but has not met her burden of proof to show the major significance of those contributions.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner claimed to satisfy this criterion through her position as general manager of [redacted] and her appointment as a chief expert with the GPA.

The record establishes that the Petitioner’s general manager position is a leading role at [redacted]. The next question is whether [redacted] has a distinguished reputation.

The relative size or longevity of an organization or establishment is not in and of itself a determining factor but is considered together with other information to determine whether a distinguished reputation exists. Other relevant factors for evaluating the reputation of an organization or establishment can include the scale of its customer base or relevant media coverage. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1).

The Petitioner submitted a profile of the company from the GPA’s website. The translated printout in the record does not identify the author of the profile, and therefore we cannot determine whether it is a self-promotional piece written by a [redacted] employee. The profile, therefore, is not strong evidence of [redacted] distinguished reputation.

The Petitioner submitted documentation showing that [] had won or bid on contracts with various customers in China, and that [] is a distributor for UV curing lamps manufactured by a company in New Jersey. These materials document [] business activity but do not directly establish or attest to the company's distinguished reputation.

Translated certificates in the record show the following information about []

- In 2015, [] was accredited as a "[] Science and Technology Innovation Giant Enterprise";
- In 2016, [] began a two-year appointment as "the third session council member of the China Printing Technology Association [] Printing Branch";
- In 2017, the GPA named [] to a four-year term as a council member;
- In 2017 and again in 2020, various provincial authorities named [] a "High-tech Enterprise," valid for three years; and
- In 2018 and 2020, the [] Administration for Industry and Commerce named [] a "[] Province Enterprise of Observing Contract and Valuing Credit."

The Petitioner did not provide independent evidence to establish the significance of these certificates and explain how they demonstrate that [] has a distinguished reputation.

In the RFE, the Director asked for more evidence of the nature of the Petitioner's roles and the distinguished reputations of the organizations. In response, the Petitioner submitted copies of previously submitted materials and a translated 2022 article from *Huanqiu* that called [] "a well-known enterprise in the printing and packaging industry." The article did not elaborate further, instead discussing the overall importance of "green and environment-friendly production methods" and [] efforts in that vein.

Media coverage is one factor to consider when examining an organization's distinguished reputation. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). But while the Petitioner has submitted a small number of articles about [] and some of its business deals, the Petitioner did not establish the extent to which this level of coverage distinguishes [] from other companies in the same field.

The Petitioner also named some of [] clients, but did not explain how these clients establish that [] has a distinguished reputation.

In the denial notice, the Director stated that the Petitioner had not established the distinguished reputations of the organizations. On appeal, the Petitioner maintains that evidence submitted in response to the RFE is sufficient to establish [] distinguished reputation. As discussed above, the record establishes the Petitioner's leading role at [], and it identifies some of [] clients, but the record lacks sufficient objective, independent evidence to show that [] has a distinguished reputation among companies in its industry.

The Petitioner also claims to have performed in a critical role for the GPA. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the

organization or establishment. A supporting role may be considered critical if the person's performance in the role is (or was) important. It is not the title of the person's role, but rather the person's performance in the role that determines whether the role is, or was, critical. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1).

With respect to the Petitioner's appointment as a chief expert for the GPA, the "Letter of Appointment" specified that the Petitioner had been named "the Chief Expert of the UV process technology category of [redacted]" The Petitioner did not provide documentation demonstrating the nature and scope of the duties she had performed as a chief expert.

The vice president of the GPA stated that the chief expert is "the highest-level member of the expert database" and that the Petitioner "played an essential role in promoting the growth of the [GPA]." Regarding the nature of that role, the official stated that the Petitioner helped member companies to upgrade to "environmentally friendly and energy-saving UV-LED curing printing systems." The official also observed that [redacted] sells those curing systems. The record does not demonstrate that, or explain how, the Petitioner's promotion of her own company's products was of significant importance to the outcome of the GPA's activities. Therefore, the Petitioner did not establish she had a leading or critical role for GPA.

In the RFE, the Director asked for "detailed and probative information that specifically addresses how the beneficiary's role for the organization or establishment is or was leading or critical. Details should include the specific tasks or accomplishments of the beneficiary as compared to others who are employed in similar pursuits within the field of endeavor." In response, the Petitioner resubmitted the same letter from the GPA's vice president, which discussed the Petitioner's qualifications for the chief expert appointment but not the duties of that appointment or why the role was critical for the GPA.

In the denial notice, the Director stated that the letters submitted in response to the RFE "did not provide the detailed and probative information that specifically addresses how the beneficiary's role for the organization or establishment was leading or critical. Also, the letters did not explain the specific tasks or accomplishments of the beneficiary as compared to others who are employed in similar pursuits within the field of endeavor."

On appeal, the Petitioner quotes the previously submitted letter from the GPA's vice president. That letter indicates that the Petitioner "played an essential role in promoting the growth of the [redacted] [redacted] but the letter does not explain how the Petitioner's work as a chief expert advanced that goal. Instead, the letter contends that the Petitioner and [redacted] have helped companies adopt new technology. But this assertion speaks to the Petitioner's role at [redacted] which sells the technology in question to some of the GPA's member companies. The quoted passage from the vice president's letter does not explain what the Petitioner's role as a chief expert entailed or how it was critical to the GPA. The assertion that [redacted] products are beneficial to the GPA's member companies is not sufficient, because the benefit from those products is not contingent on the Petitioner's appointment as chief expert.

Because the Petitioner has not established that her role as a chief expert was critical for the GPA, we need not explore the separate issue of whether the GPA has a distinguished reputation.

The Petitioner has not satisfied the regulatory requirements for this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner submitted a “Proof of Personal Income” document from [] indicating that the Petitioner’s annual salary plus bonuses was about ¥1.17 million in 2019, ¥1.36 million in 2020, and ¥2.1 million in 2021.

The Petitioner submitted a “Printing and Packaging Industry Salary Survey Report” for 2020, indicating that general managers in China with more than 10 years of experience earned average salaries ranging from ¥995,000 for high school graduates to ¥1.29 million for individuals with doctorates.

The Director stated, in the RFE, that the submitted evidence was not sufficient to satisfy the regulatory requirements. In response, the Petitioner submitted additional excerpts from the salary survey report, primarily dealing with the salaries of lower-level employees in the printing and packaging industry.

In denying the petition, the Director concluded that “[t]he petitioner did not submit sufficient evidence to compare the beneficiary’s salary with others of the same position in the field.” On appeal, the Petitioner cites previously submitted evidence and repeats the claim that her “salary is significantly high relative to others working in the field.”

Also in the denial, the Director stated: “The petitioner did not submit the evidence like media reports of notably high salaries earned by others in the beneficiary’s field; and list [sic] compiled by credible professional organization(s) of the top earners in a field.” On appeal, the Petitioner protests that the Director introduces “new grounds” beyond the information in the RFE, and that therefore the Petitioner did not have an opportunity to submit such evidence. But in the RFE, the Director listed both media reports and lists of top earners as evidence the Petitioner could support in response to the RFE.

The documentation of industry averages the Petitioner submitted shows salaries only, while the figures for Petitioner’s earnings combine salary and bonuses. These mismatched figures do not permit a direct comparison between the Petitioner and others in the industry, either on the basis of base salary alone or total compensation. Therefore, the evidence submitted does not show that the Petitioner meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten lesser criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

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 a level of recognition of her work that shows the required sustained national or international acclaim or demonstrates 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 Petitioner 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).

The Petitioner has patented useful inventions and developed software relating to UV-LED printing, and she has used this technology to run what appears to be a successful business. She has not, however, shown that this success has risen to the level of sustained national or international acclaim. Her reputation, instead, appears to be heavily concentrated in [redacted] Province. Her appointment as a chief expert, for example, is with a provincial-level association. We acknowledge the assertion that [redacted] hosts a disproportionate share of China’s printing industry, but this does not establish sustained acclaim at the required national or international level.

The Petitioner’s name has appeared in a small number of nationally published articles, but the tone of the articles appears to be promotional rather than journalistic. Rather than announce recent developments that would account for media attention, most of the articles offer general praise for the Petitioner, her company, and its products. Marketing materials created for the purpose of selling the person’s products or promoting the person’s services are not generally considered to be published material about the person (this includes seemingly objective content about the person in major print publications that the person or their employer paid for). *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1).¹ Among the materials that the Petitioner submitted in attempt to establish that the articles appeared in major media is part of a report by a marketing agency, stating that one such “website seems to have companies who want to put their information online as their clients, and post positive information for them on their website.”

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.

¹ We note that most of the articles are broadly similar and appeared within a short period of time immediately preceding the September 2022 filing of the petition.