U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41977205

Date: APR. 27, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a technology company,[1] seeks to classify the Beneficiary as an alien of extraordinary ability in business.[2] This O-1 nonimmigrant visa classification is available to aliens with extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. Immigration and Nationality Act (the Act) Section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not satisfy the initial evidentiary requirements of submitting evidence of the Beneficiary's receipt of a major, internationally recognized award, or at least three of the eight possible forms of documentation listed under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). *See also* 8 C.F.R. § 214.2(o)(3)(iii)(A). The matter is now before us on appeal pursuant to 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 101(a)(15)(O)(i) of the Act establishes O-1 classification for an alien of extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. U.S. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii).

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[1] According to page 6 of the petition, the Petitioner is in the business of "[e]mbedded software and hardware robotics."

[2] The Petitioner reiterated in its appellate brief that the Beneficiary "is an alien of extraordinary ability in the business field . . . ."

In addition, DHS regulations set forth initial evidentiary criteria for establishing an alien's sustained national or international acclaim and recognition for achievements in the field of endeavor. A petitioner may submit evidence either of the alien's receipt of "a major, internationally recognized award, such as a Nobel Prize," or at least three of the eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). If the petitioner demonstrates that a particular criterion does not readily apply to the alien's occupation, it may submit comparable evidence to establish eligibility. 8 C.F.R. § 214.2(o)(3)(iii)(C).

The petitioner's submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish the alien's eligibility for O-1 classification. *See* 59 Fed. Reg. 41818 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met."). Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary requirements, we will determine whether the totality of the record and the quality of the evidence show sustained national or international acclaim such that the alien is among the small percentage at the very top of the field of endeavor. *See* Section 101(a)(15)(O)(i) of the Act; 8 C.F.R. § 214.2(o)(3)(ii), (iii).[3]

II. ANALYSIS

Pages 5 and 6 of the petition indicate that the petitioning entity seeks to employ the Beneficiary as its "Vice President of Strategy and Business Development" for two years, compensating him with an annual wage of $100,000. The record includes an employment offer letter, providing that the Beneficiary "will be responsible directly and indirectly for bringing revenue into the company from all business lines . . . and via all sales channels . . . ." The employment offer also lists the Beneficiary's other forms of compensation, such as commission, stock grant, and bonus.

The Petitioner does not claim or establish that the Beneficiary has received a major, internationally recognized award. *See* 8 C.F.R. § 214.2(o)(3)(iii)(A). As such, the Petitioner must satisfy the initial evidentiary requirements by submitting documents showing that the Beneficiary meets at least three of the eight regulatory criteria listed under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). SCOPS determined that the Beneficiary met none of the eight regulatory criteria. On appeal, the Petitioner maintains that he meets the following three criteria.[4]

A. Published Material

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*) requires the Petitioner to submit "[p]ublished material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation." USCIS Policy Manual explains that "[i]n evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and

[3] *See generally* 2 *USCIS Policy Manual* M.4(C)(4), www.uscis.gov/policy-manual/volume-2-part-m-chapter-4.
[4] Any ground of eligibility that the Petitioner does not raise on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

other major media)." *See generally* 2 *USCIS Policy Manual* M.4(C)(2), www.uscis.gov/policy-manual/volume-2-part-m-chapter-4. On appeal, the Petitioner claims that a *Sport Aviation* article that purportedly discusses "the company [redacted] and [the Beneficiary]" satisfies this criterion, maintaining that the publication constitutes a "professional publication."

The record includes an August 2021 *Sport Aviation* article that discusses the work of [redacted], an European engine company, and mentions that the Beneficiary was its chief operating officer (COO). Even if we were to accept that the article, which only references the Beneficiary a few times, is about the Beneficiary, relating to his work in the field of business, the record is insufficient to substantiate the Petitioner's claim that *Sport Aviation* is a professional publication. Specifically, the Petitioner has not offered evidence establishing the intended audience of the publication, or other materials to support the finding that the publication qualifies as a professional publication. *See* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*). As SCOPS noted in the decision, "[i]n response to the RFE [request for evidence], [the Petitioner] did not provide additional information on the publication *Sport Aviation*." The Petitioner's unsubstantiated statement on appeal that *Sport Aviation* "should meet this requirement of being a professional publication" is insufficient to satisfy this criterion. As such, the Petitioner has not demonstrated that the Beneficiary meets this criterion.

B. Original Contributions

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*) requires the Petitioner to submit "[e]vidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field." USCIS Policy Manual explains that "[e]vidence that the beneficiary's work was funded, patented, or published, 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* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2). Evidence that the beneficiary's work "has provoked widespread commentary on its importance from others working in the field, and documentation that it has been highly cited relative to other works in that field, may be probative of the significance of the beneficiary's contributions to the field of endeavor." *See generally id.* USCIS Policy Manual further provides that "evidence that the beneficiary developed a patented technology that has attracted significant attention or commercialization may establish the significance of the beneficiary's original contribution to the field." *See generally id.* In short, the Petitioner must demonstrate that the Beneficiary's contributions are both original and of major significance in the field of business.

On appeal, the Petitioner alleges that SCOPS "failed to understand [the Beneficiary's] original business-related contributions" and cites letters of support from [redacted], the president of [redacted]; [redacted] Georgia; [redacted], a retired major general of U.S. Air Force; and [redacted], president and chief executive officer of [redacted] These individuals have worked with the Beneficiary and they all praise his technical expertise as well as business acumen. [redacted] indicated that he "collaborated [with the Beneficiary] daily to grow and develop [redacted] from] a small startup into a Canadian company with nationally recognized intellectual property in a very challenging business environment" and that they "achieved remarkable milestones; an accomplishment attributable in large part to [the Beneficiary's] dedication, innovative thinking and work ethic." [redacted] stated that the Beneficiary brought "transformative projects to the United States," "played a key role in relocating [redacted] from Canada to Georgia," and has the potential to "make [positive impact] on local communities and the broader economy," as well as "to

create significant economic growth and job opportunities." [redacted] detailed the Beneficiary's work as the COO at [redacted], noting that he was "instrumental [in] transforming [redacted] from a small startup into a leading organization" and that he "generated innovative IP [intellectual property], including authoring numerous patents and overseeing comprehensive IP strategies." [redacted] explained that the Beneficiary's "expertise in building innovation ecosystems is matched by his extraordinary knowledge and exclusive stewardship of the Single-Stroke Internal Combustion Engine (SS-ICE), a proprietary propulsion . . . ." [redacted] noted that the Beneficiary "is currently the only living individual with comprehensive technical and operational knowledge of this platform" and that he "plays an irreplaceable role in adapting SS-ICE technology into [redacted] regenerative infrastructure model . . . ."

On appeal, the Petitioner alleges that "companies are now using the single stroke engine technology that he was a part of creating, developing, and maintaining," and that the "[t]echnology will be used in our nation's defense and structure." The evidence shows that one company, or at most a few companies, have used the SS-ICE technology. The limited level of adoption of the technology is insufficient to demonstrate major significance in the field. The record includes a June 2022 letter from [redacted] indicating that the company "collaborated [with [redacted] to market and sell to the U.S. Department of Defense a proprietary single stroke engine operating with a unique propulsion system." The letter claims that "[o]nce mature, [redacted] technology will have the ability to improve cost, schedule and performance of many U.S. Department of Defense combat systems." The record lacks evidence confirming that [redacted] technology has "mature[d]," or that the U.S. military has purchased or used [redacted] SS-ICE technology. At most, the Petitioner has shown the technology has potential, but without additional evidence of actual significance of the technology, such as a high level of adoption, the Petitioner has not sufficiently established that the Beneficary's work in the SS-ICE technology rises to the level of contributions of major significance in the field.

The evidence in the record, including the above-referenced letters, does not sufficiently establish that the Beneficiary has made original scientific, scholarly, or business-related contributions of major significance in the field, as required under the criterion. *See* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*). The materials confirm that the Beneficiary contributed to his former employer [redacted], as its COO, and improved its standing in the industry. But the materials do not explain how his work as the COO impacted the field of business beyond his former employer or its clients. As SCOPS explained in the decision, the Petitioner "did not include [sufficient] corroborative documentary evidence establishing the significance of the [B]eneficiary's contributions." Similarly, while the Beneficiary was involved with patents and intellectual property, the evidence fails to confirm that his work in the industry "has provoked widespread commentary on its importance from others working in the field" or "has attracted significant attention or commercialization." *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2). As SCOPS explained in the decision, "[w]hile the testimonial letters were very complementary of the [B]eneficiary, they did not describe how he made original contributions of major significance in his field." SCOPS observed that the letters "primarily spoke to the [B]eneficiary's work ethnic and skill in business," but they did "not articulate how he made original contributions of major significance in his field." As such, the Petitioner has not demonstrated that the Beneficiary meets this criterion.

C. Critical or Essential Capacity

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*) requires the Petitioner to submit "[e]vidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation." USCIS Policy Manual explains: "[r]elevant factors for evaluating the reputation of an organization or establishment can include the scale of its customer base, longevity, or relevant media coverage." *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2). Additionally, the Policy Manual states: "[f]or a startup business, [U.S. Citizenship and Immigration Services (USCIS)] may consider evidence that the business has received significant funding from government entities, venture capital funds, angel investors, or other such funders commensurate with funding rounds generally achieved for that startup's stage and industry, as a positive factor regarding its distinguished reputation." *Id.*

The Petitioner states in its appellate brief, dated [redacted] 2025, that the Beneficiary "has not worked for [the petitioning entity]" and that "[t]here is no need to prove [he] worked for [the petitioning entity] because he hasn't." These statements, however, contradict statements in an August 2025 letter from [redacted] chief executive officer and cofounder of the petitioning entity. According to [redacted], the Beneficiary "currently serves as [the petitioning entity's] Vice President of Strategy and Business Development." The record contains inconsistent information regarding the Beneficiary's employment status, for which the Petitioner has not resolved. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (noting that "it is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence" and that "[a]ttempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice").

On appeal, the Petitioner maintains that the Beneficary meets this criterion because he had worked for [redacted], stating that he "had an essential role with and was instrumental with [redacted] success." In support of its position, the Petitioner points to letters of support from [redacted]; [redacted] the president of the [redacted] Chamber of Commerce; and [redacted], chief executive officer of [redacted]. [redacted] letter praises the Beneficiary's contributions to the petitioning entity, but does not demonstrate, or claim, that [redacted] or the petitioning entity qualifies as an organization or establishment that has a distinguished reputation. Similarly, the letters from [redacted] do not establish [redacted] has a distinguished reputation, as required under this criterion. [redacted] wrote two letters on behalf of the Beneficiary, dated January 2025 and August 2025, respectively. The January 2025 letter acknowledges the Beneficiary's "readiness, professionalism, and reliability" and his "diligent work ethic, creative problem-solving, and consistent follow-through." The August 2025 letter discusses the Beneficiary's work in the SS-ICE technology. [redacted] also wrote two letters on the Beneficiary's behalf, dated January 2025 and August 2025, respectively. The January 2025 letter recognizes the Beneficiary's "proactive approach, impressive knowledge and untiring commitment," as well as his "forward-thinking approach and global perspective." The August 2025 letter discusses the Beneficiary's "contributions to the field of energy and propulsion innovation," which is not the field in which the Petitioner claims the Beneficiary has extraordinary ability. These letters, however, do not address the reputation of [redacted] which is at issue regarding this criterion.

The record includes an August 2021 article about [redacted] and evidence showing that some companies has utilized [redacted] SS-ICE technology. The Petitioner has not demonstrated that the

limited media attention and industry adoption sufficiently confirm [redacted] distinguished reputation. As SCOPS observed in the decision:

> [The Petitioner] did not include sufficient evidence to establish the distinguished reputation of AMPERe . . . . For example, [the Petitioner] did not include evidence of major media coverage of this company and its accomplishments, evidence of major commercial success, information on its customer base and longevity in its field, or any other indicator of a distinguished reputation.

In short, while the evidence appears to demonstrate that [redacted] had employed the Beneficiary in a critical or essential capacity, it is insufficient to establish that [redacted] qualifies as an organization or establishment that has a distinguished reputation. *See* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*). As such, the Petitioner has not demonstrated that the Beneficiary meets this criterion.

III. CONCLUSION

The Petitioner has not satisfied the initial evidentiary requirements of submitting at least three of the eight forms of documentation listed under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). Because the Petitioner has not met the initial evidentiary requirements, we need not provide, and therefore reserve, a totality determination to consider whether the Beneficiary has sustained national or international acclaim and is one of the small percentage who has arisen to the very top of the field. *See* Section 101(a)(15)(O)(i) of the Act; 8 C.F.R. § 214.2(o)(3)(ii) and (iii); *see also INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision). Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification as an alien of extraordinary ability in business.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.