U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41725936

Date: APR. 28, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an artificial intelligence powered investment bank, seeks classification on behalf of the Beneficiary, its founder and a technology entrepreneur, under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203 (b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate a beneficiary's "sustained national or international acclaim" and extensively document recognition of his or her achievements in the field. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that the Beneficiary satisfied at least three of ten initial evidentiary criteria for this classification, as required. 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

To qualify for this immigrant visa category, a petitioner must demonstrate that a beneficiary:

- Has "extraordinary ability in the sciences, acts, education, business, or athletics;"
- Seeks to continue work in his or her field of expertise in the United States; and
- Would substantially benefit prospectively the country as a permanent resident.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).[1] The implementing

[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, he or she may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 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).

If a petitioner meets either evidentiary standard and the requirements of section 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. To merit approval, the record – as a whole – must establish "sustained national or international acclaim" and recognized achievements placing a beneficiary among the small percentage at the very top of his or her field. *See Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), https://www.uscis.gov/policy-manual.

II. ANALYSIS

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must demonstrate that the Beneficiary satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii)(i)-(x). In the initial petition, the Petitioner claimed the Beneficiary satisfied seven criteria. SCOPS evaluated the Petitioner's claims in the initial petition as well as in response to the RFE and concluded the Beneficiary did not satisfy any of the criteria the Petitioner claimed. On appeal, the Petitioner claims the Beneficiary meets the same criteria and alleges error. After reviewing all the evidence in the record, we conclude the Petitioner has not demonstrated the Beneficiary's eligibility for this highly restrictive immigrant classification for the reasons we will discuss below.

1. Lesser Nationally or Internationally Recognized Prizes or Awards for Excellence in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." USCIS determines if the person was the recipient of prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. The description of this type of evidence in the regulation indicates that the focus should be on the person's receipt of the awards or prizes, as opposed to the employer's receipt of the awards or prizes. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1). USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the person received for excellence in the field of endeavor. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1). Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include but are not limited to the criteria used to grant the awards or prizes, the national or international significance of the awards or prizes in the field, the number of awardees or prize recipients, and limitations on competitors. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1).

The Petitioner asserts that the Beneficiary satisfies this criterion because the petitioning organization, founded by the Beneficiary, received $500,000 in venture capital funding from [redacted] and an additional $4,000,000 in funding from other venture capital firms. In support of its claim to the criterion, the Petitioner submitted a printout from [redacted] website listing the Petitioner and its founders as members of its investment portfolio, another printout from [redacted] website describing the Petitioner, printout of [redacted] website listing the Petitioner as a member of its investment portfolio, printout of [redacted] website listing the Petitioner as a member of its investment portfolio, a letter from [redacted], group partner, [redacted], an excerpt from the *USCIS Policy Manual*, a copy of *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885 (E.D.N.Y. Sept. 30, 2011), a copy of a series seed preferred stock purchase agreement between the Petitioner and investors listed in an annex to the agreement, online dictionary entries containing definitions of the words "prize" and "award," a copy of *Zizi v. Cuccinelli*, 20-CV-07856-SVK, 2021 WL 2826713, (N.D. Cal. July 7, 2021), copy of a page from the USCIS website discussing O-1A requirements, an article appearing in TechCrunch that mentions the Petitioner's participation in the Winter 2024 batch of [redacted] with several webpages describing what TechCrunch is, and several articles discussing venture capital funding.

The June 2024 letter from [redacted] indicates that the Beneficiary is one of the "just 1% of founders selected from thousands of applicants for each [redacted] cohort." The letter praises the Beneficiary for his "technical skill, creative vision, and business acumen," his creation of "an innovative platform for small to medium-sized business (SMD) mergers and acquisitions," and his "impressive academic brilliance and professional journey" in his field. And other evidence in the record like the stock purchase agreement between the Petitioner and numerous investors and the Petitioner's inclusion in the investment portfolios of other venture capital firms, demonstrates that the Petitioner has entered into other investment arrangements in addition to [redacted]

But none of the evidence in the record references the investment arrangement as a prize or award to the Beneficiary for excellence in his field. Rather the documentation, at best, indicates that [redacted] has chosen to invest in the petitioning organization among many other startups because it believes in the petitioning organization's growth and earning potential as well as the Beneficiary and the other cofounder's ability to build and operate the business.

The Petitioner alternatively seeks to characterize its receipt of investment from [redacted] as comparable evidence to demonstrate eligibility under criterion. It is the Petitioner's burden to demonstrate the criterion does not readily apply to his field or occupation. The record here does not contain evidence to demonstrate by a preponderance of the evidence that the criterion does not readily or even easily apply. So, we do not consider the Petitioner's receipt of investment from [redacted] as comparable evidence to meet the criterion.

As discussed in SCOPS' decision, the evidence fails to show that the Petitioner's receipt of venture capital funding confirms that the Beneficiary has received a qualifying award. In other words, the evidence is insufficient to establish that the investment arrangement qualifies as a nationally or internationally recognized prize or award for excellence in the Beneficiary's field. As such, the Petitioner has not demonstrated that the Beneficiary meets this criterion.

2. Memberships

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation 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."

The Petitioner claims that the Beneficiary meets this criterion because he has achieved membership in the Forbes Technology Council as well as [redacted], a startup accelerator. For the below reasons the Beneficiary's memberships, such that they are, do not meet the plain language of the criterion.

a. Forbes Technology Council

To support the Petitioner's claim to this criterion based on the Beneficiary's membership in the Forbes Technology Council, the Petitioner submits printouts from the Forbes Councils website containing an online entry for the Petitioner and the Beneficiary under the Forbes Technology Council heading. The record also contains a letter from [redacted], co-founder and COO of Forbes Technology Council / Community.co with his short and long biography. Along with online dictionary entries for "outstanding," "achievement," and "accomplishment," the Petitioner also submitted a copy of an application portal for consideration in the Forbes Technology Council, with a seemingly random sample of effusive quotes about the relative merits of Forbes Technology Council membership. The application portal further invited approved applicants to "select and purchase a membership package." The record also contains biographies for [redacted] who serve on the Forbes "selection committee." Finally, the Petitioner submitted an excerpt from a non-precedent opinion issued by our office in an unconnected matter.

We additionally note that articles published in the Forbes Technology Council newsletter containing a byline crediting the Beneficiary also appear to indicate that his membership is "fee-based." Other evidence seemingly requires that prospective members of Forbes Technology Council submit an application. But the evidence in the record also alternatively refers to the Forbes Technology Council as an "invite only" association. Nevertheless, putting this seeming incongruity to the side, the evidence in the record also indicates that membership in the Forbes Technology Council is predicated on the achievement of annual recurring revenue or venture capital funding of $1,000,000 and not on judging the outstanding achievements of prospective members. So that dispositive fact, in and of itself, leads us to conclude that membership in the Forbes Technology Council does not support the Petitioner's claim of the Beneficiary's eligibility under this criterion.

We note that [redacted] letter casts the requirements of achievement of annual recurring revenue or venture capital funding of $1,000,000 as a screening factor. According to [redacted] the "Forbes Councils selection committee, an internal team composed of trained professionals with specialized experience in evaluating leadership and success in cross-disciplinary domains such as software development, program management, and information technology" will conduct a post-screening "validat[ion of] an applicant's distinctive academic and industry credentials." So, even if we were to consider the achievement of annual recurring revenue or venture capital funding of $1,000,000 as a screening factor, the next step of evaluation of a prospective member in the Forbes Technology Council is not whether he or she has outstanding achievements, but rather if he or she has "distinctive academic and industry credentials."

The Petitioner submitted biographies of [redacted] and identified them as individuals who served on Forbes selection committees. But the record does not state if [redacted] were involved in the Beneficiary's selection to the Forbes Technology Council. And although [redacted] appear accomplished and seasoned professionals in their respective fields, the evidence did not adequately establish that they were recognized experts in the Beneficiary's field. *See Kumar v. Dir. Of U.S. Citizenship & Immigration Serv.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's documentation did not reflect recognized national or international experts determine qualifications for membership).

Finally, the Petitioner's submission of an excerpt from a non-precedent opinion issued by our office in an unconnected matter is not material, relevant, or probative to the assertions it is making about the Beneficiary's eligibility under the criterion. In the first instance, non-precedent decisions apply existing law and policy to the facts of an individual case. These decisions are binding on the parties involved in the case, but do not create or modify USCIS policy or practice. We do not announce new interpretations of law or establish agency policy through non-precedent decisions. As a result, non-precedent decisions do not provide a basis for applying new or alternative interpretations of law or policy. Moreover, the non-precedent decision excerpt the Petitioner submitted is inapplicable because it discussed a different organization, Forbes Finance Council, and not the Forbes Technology Council we are discussing here. So, we conclude the Forbes Technology Council is not an association contemplated in this criterion requiring outstanding achievements of members as judged and selected by national and international experts in an applicable field.

b. [redacted]

The Petitioner seeks to characterize the Beneficiary's association with [redacted] as directly applicable to the criterion or, in the alternative, comparable evidence to demonstrate eligibility under criterion.

(1) Comparable Evidence

We do not agree with the Petitioner's alternative contention that the Beneficiary's association with [redacted] is comparable evidence of eligibility under this criterion. In the first instance, a general unsupported assertion that the criterion does not readily or even easily apply is not probative. And, in this case, the Petitioner's assertion is not only unsupported, but it is also severely weakened when we consider the Petitioner has already advanced the Beneficiary's membership in the Forbes Technology Council as a basis for eligibility under this criterion. And, the Petitioner presents this assertion of the comparable evidence of the Beneficiary's [redacted] association as an alternative to its simultaneous contention that the Beneficiary's association with [redacted] is a membership in an association in his 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. So, because of these incongruent assertions, we conclude the Petitioner's advancement of the Beneficiary's association with [redacted] as comparable evidence to meet the criterion is vague, aspecific, and not credible.

(2) Applicability Under the Criterion

To support the Petitioner's claim to this criterion based on the Beneficiary's association with [redacted] the Petitioner submitted a web printout of [redacted] Founder Directory identifying the Beneficiary as a [redacted] founder. The Petitioner also submitted a printout containing the Petitioner's listing as a [redacted] company. The record contains a letter from [redacted] group partner, [redacted] as well as his biography. The record also contains a number of articles describing [redacted] its work, and a level of esteem attributed to it. The Petitioner submitted online dictionary entries for "outstanding," "achievement," and "accomplishment," as well as the biographies of several individuals who have judged and evaluated [redacted] applications.

But this evidence does not adequately demonstrate that the investment [redacted] has made in the Petitioner qualifies as evidence of the Beneficiary's membership in an association that requires outstanding achievements of its members. [redacted] letter identifies the "cohesive union" of the Beneficiary's "technical skill, creative vision, and business acumen" as an "outstanding achievement" but does not reference [redacted] as an association or its investment in the Petitioner as granting the Beneficiary membership in any association. [redacted] founder and chief executive officer, [redacted] also refers to the Beneficiary's association with [redacted] as affiliation and not membership. Further, we note the evidence demonstrates [redacted] selectivity with respect to the deployment of its investment funds. But the evidence describing the selectivity does not persuasively demonstrate that [redacted] decision to selectively invest in startup organizations constitutes granting membership in an association to the startup's founder. Moreover, the record does not describe the minimum requirements and criteria [redacted] adheres to prior to its investment decisions and does not indicate a need for a person like the Beneficiary's achievements to be judged as outstanding by individuals who are recognized as national or international experts in their field.

So, we conclude the Petitioner has not met this criterion.

3. Published Material About the Petitioner Relating to His Work in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) seeks "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought." It also requires that such evidence includes "the title, date, and author of the material, and any necessary translation."

USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. The published material should be about the person, relating to the person's work in the field, and not just about the person's employer and the employer's work or about another organization and that organization's work. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

In support of its claim to this criteria, the Petitioner submitted an article authored by [redacted] entitled '[redacted]' appearing in TechCrunch

on [redacted], 2024. The Petitioner also submitted an excerpt from *Muni v. INS*, 891 F. Supp. 440 (N.D. Ill. 1995) accompanied by information describing TechCrunch and its readership as described by simpleweb and evidence describing simpleweb. The record further contains search engine optimization information about TechCrunch, such as its "website authority" and its "domain rating." And the record has documentation demonstrating TechCrunch has appeared on two "top 10" lists for technology news websites and blogs.

SCOPS concluded that the article did not support the Petitioner's claim that the Beneficiary met this criterion because it was not about him. *See Joseph v. Dir. of Texas Serv. Ctr., United States Citizenship & Immigr. Servs.*, No. 24-40249, 2025 WL 458001, at *3 (5th Cir. Feb. 11, 2025) (finding the plain language of the criterion requires the publication to be about the alien and his work in the field). We agree. Apart from mentioning the Beneficiary's name, identifying him as the Petitioner's founder, and including his photograph, the article does not relate to the Beneficiary and his specific work in the field. *See Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *3-4 (N.D. Tex. Oct. 19, 2023) (upholding published material must be specifically about the applicant and focus on his personal work in the relevant field, not merely relate to the applicant's work, mention his name, or include his photo). And the Beneficiary has a single quote in the article about the involvement of humans in important transactions and how artificial intelligence software is used as a primary versus a supportive tool. *See Nelson v. U.S. Citizenship & Immigr. Servs.*, No. CV 21-10334-LTS, 2022 WL 20583561, at *5 (D. Mass. June 15, 2022) (upholding articles that only cited or quoted the petitioner are not about him). The Beneficiary is also credited with a demo of the artificial intelligence agents the Petitioner's employees utilize in the course of supporting the Petitioner's work as an artificial intelligence powered investment bank. But the article does not identify or otherwise discuss the Beneficiary specifically or attribute any specific contributions or achievements to him. The article instead appears dedicated to describing the Petitioner and its business offering paradigm. So, it does not appear that the article is about the Beneficiary and his work. *See Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *4 (D. Neb. Mar. 10, 2025) (finding the regulation and USCIS policy clearly intend for evidence under this criterion to say something substantive about the petitioner and her work).

As the Petitioner submitted an article that is not about the Beneficiary and his work, we need not discuss whether TechCrunch is a professional or major trade publication or other major media. But, setting aside that dispositive issue, we would still conclude that the Petitioner did not establish the Beneficiary met this criterion because the record does not adequately support that TechCrunch is a professional or major trade publication or other major media.

USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Examples of qualifying media may include, but are not limited to: professional or major print publications (newspaper articles, popular and academic journal articles, books, textbooks, or similar publications) regarding the person and the person's work; professional or major online publications regarding the person and the person's work; and transcripts of professional or major audio or video coverage of the person and the person's work. *Id.* In 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 other major media). *Id.*

The evidence the Petitioner submitted of TechCrunch's readership as described by simpleweb, its "website authority" and "domain rating" for search engine optimization, and its appearance on "top 10" lists for technology news websites and blogs does not proponderantly describe TechCrunch's intended audience, or its relative circulation, readership, or viewership such that we could determine if TechCrunch was a professional or major trade publication or other major media.

So, we conclude the Petitioner has not met this criterion.

4. Scholarly Articles

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires "[e]vidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." USCIS determines whether the person has authored scholarly articles in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. Scholarly articles are also generally peer reviewed by other experts in the field of specialization. In general, a scholarly article should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. *See generally 6 USCIS Policy Manual*, supra, at F.2(B)(1). For other fields, a scholarly article should be written for learned persons in that field. Learned persons include all persons having profound knowledge of a field. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1).

In the first instance, the Petitioner contends that the Beneficiary meets this criterion and submits evidence of his authorship of four purported articles in the Forbes Technology Council newsletter. We note that three of the Beneficiary's articles are in fact not articles he has authored. None of the articles are a cohesive published piece. The articles are merely a collection of 19 or 20 quotes relating back to the subject of the posted article, with one of the myriad quotes being attributed to the Beneficiary.

One of the articles, [redacted]' did contain a byline crediting the Beneficiary and was a cohesive published piece. But the article's scholarly attributes are not sufficiently patent. In non-academic fields like that of the Petitioner, a scholarly article outside of academia can meet the requirements of the criterion if it is published in one of the medium's described in the criterion and is for learned persons in the field. The Petitioner notes that the Beneficiary's article's scholarly attributes are patent because the Beneficiary "cites case studies and empirical data and philosophical views." But this conflicts with information in the record, which indicates that the Beneficiary's article does not identify any case studies, sources of empirical data, or foundation for his philosophical views. It appears that the Beneficiary's article provides an overview suggesting that generic "AI" or artificial intelligence tools can be of use to small business owners in mergers and acquisitions." The Petitioner also stresses that the article's appearance in Forbes Technology Council's newsletter hosted on the Forbes.com website supports the article's scholarly credentials because Forbes has "a learned global readership of C-Level Executives, Entrepreneurs, and IT Leaders." But evidence in the record describes Forbes.com, the website hosting the Forbes Technology Council newsletter, as "reaching the most 'influential and engaged audience of C-Suite,

business owners, IT Decision Makers, Business Decision Makers, and Millennials.'" So, the record reflects the Forbes Technology Council newsletter is targeted at individuals involved in business at a variety of levels as well as others who may have no interest in the Petitioner's field. Consequently, we conclude that the Petitioner's articles as appearing in Forbes Technology Council newsletter on Forbes.com are not sufficiently scholarly to meet the requirements set forth in the criteria.

The Petitioner also avers that the article the Beneficiary published in Fully Distributed is a scholarly article and that Fully Distributed is a professional publication. We disagree that Fully Distributed is a professional publication.

The term "profession" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. *See* section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32). Moreover, "profession" means one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation. See 8 C.F.R. § 204.5(k)(2). In evaluating whether a submitted publication is a professional publication, a relevant factor includes the intended audience. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Fully Distributed is the Beneficiary's public blog. It purportedly "caters to a global community of technologists and futurists who share a common passion and curiosity about cutting-edge tech and how it will shape our society." The record does not demonstrate with adequate clarity how "a global community of technologists and futurists" is a "profession" as defined by the law and regulations. The record contains a printout featuring analytics purporting to describe the demographics of the Beneficiary's blog's followers. But the analytics are expressed in percentages and do not contain raw numbers. Because the Petitioner did not demonstrate Fully Distributed's intended audience meets the definition of "profession" as defined in the law and regulations, the Petitioner did not establish the Beneficiary's personal blog qualifies as a professional publication.

So, we conclude the Petitioner has not met this criterion.

5. Display

The Petitioner avers that the Beneficiary's participation in [redacted] Demo Day, where he presented the Petitioner's work-product and software platform before a group of investors, is comparable evidence of display of his work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

We may consider non-artistic exhibitions or showcases as part of a properly supported claim of comparable evidence. As we stated earlier, a Petitioner can submit comparable evidence to meet a criterion that does not readily apply to the person's occupation. When we evaluate comparable evidence, we consider whether the regulatory criterion is readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in the regulation.

But in all cases, exhibitions must be public showings. The Petitioner's participation in [redacted] Demo Day was not a public showing. The record reflects that [redacted] Demo Day is "an

invite-only audience of approximately 1,500 investors and media." Or in other words, it is a gathering of select individuals closed off from general availability for review. The record does not address how a presentation before curated investors and media compares to a public exhibition or showcase. So, we conclude the Petitioner has not met this criterion with its comparable evidence.

6. We Reserve The Remaining Claimed Criteria

We note the Petitioner claims the Beneficiary met an additional criterion related to performing in a leading or critical role for organizations or establishments that have a distinguished reputation. However, as noted above, the Petitioner's unsuccessful demonstration of the Beneficiary's eligibility under the criteria we discuss means the Beneficiary cannot numerically meet the required number of at least three criteria out of the 10 available and the seven the Petitioner claimed the Beneficiary met. Accordingly, discussion of the remaining claim would serve no legal purpose and we reserve it. *See 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).

B. Final Merits Determination

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 criteria. As a result, we do not need to 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 it does not support a finding that the Beneficiary has established the acclaim and recognition required for the classification sought.

C. O-1 Nonimmigrant Status

We note that the record reflects that the Petitioner received O-1 petition approval on behalf of the Beneficiary, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved the Beneficiary's O-1 nonimmigrant visa classification, that approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different statute, regulations, and case law. Many Form I-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 is comparable to the relationship between a court of appeals and a district court. Even if SCOPS has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another nonimmigrant or immigrant visa 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 established the Beneficiary's eligibility as an individual of extraordinary ability.

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.