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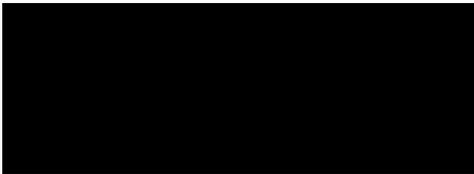


FILE: EAC 03 130 52224 Office: VERMONT SERVICE CENTER Date: JUN 21 2015

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn. The petition will be remanded to the director for entry of a new decision

The petitioner is involved in the design, manufacture and marketing of analog, mixed-signal and digital signal processing integrated circuits used in signal processing applications. On June 30, 2003, the director issued a notice of intent to deny (NOID) a Form I-129 petition filed by the petitioner on March 21, 2003. The director's notice stated that the petitioner had thirty days to respond to the notice. On December 10, 2003, the director denied the petition stating that the petitioner did not respond to the NOID. The director's decision gave notice to the petitioner of its right to appeal the decision.

On appeal the petitioner submits documentation dated July 25, 2003, indicating that the petitioner responded to the director's NOID. Documentation has been submitted establishing that the petitioner's response was sent to Citizenship and Immigration Services (CIS) by United Parcel Service (UPS) next day air and was actually received by CIS on July 28, 2003 at 9:50 a.m., and signed for by [REDACTED]. The petitioner has, therefore, established that it did, in fact, respond to the director's NOID within the time permitted for response. The basis for the director's denial has, therefore, been overcome. The director's decision to the contrary shall be withdrawn and this matter remanded to the director to issue a new decision after considering the information contained in the petitioner's response.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director to enter a new decision commensurate with the directives of this opinion. The director shall certify the matter to the AAO should his determination be adverse to the petitioner.