

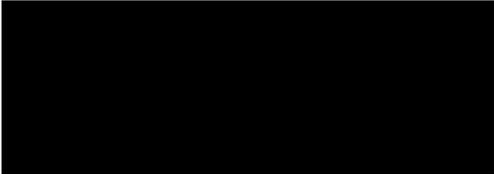
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invasion of personal privacy**

U.S. Department of Homeland Security  
Citizenship and Immigration Services

*[Handwritten initials]*

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street N.W.  
Washington, DC 20536



**SEP 12 2003**

File: EAC 02 019 52997 Office: VERMONT SERVICE CENTER

Date:

IN RE: Petitioner:  
Beneficiary:



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

ON BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

*[Handwritten signature]*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition and a subsequent motion to reconsider was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner operates a sewing factory. It seeks to continue to employ the beneficiary in the United States as its executive president. The director found that the record did not establish that the foreign entity was still a qualifying organization engaged in the regular, systematic, and continuous provision of goods and/or services.

On appeal, counsel submits an undated letter from Mr. [REDACTED] who states that he is the Acting Executive Manager of [REDACTED] located in Ajhman, United Arab Emirates. Mr. [REDACTED] further states that the parent company and subsidiary continue to remain active, viable businesses and a continuing relationship exists between the parent and subsidiary companies. Mr. [REDACTED] forwards documents in support of his assertions as follows:

- A list of employees at the Parent company.
- Purchase order and invoices of the Parent company.
- Bills of Lading.
- Commercial license and Membership certificates with the local Chamber of Commerce and Industry for the Parent Company.
- Telecommunication statements of accounts.
- Financial statements.
- Photographs of the Parent Company.

Regulations at 8 C.F.R. § 214.2(1)(14)(ii) state that a visa petition under section 101(a)(15)(L) which involved the opening of a new office may be extended by filing a new Form I-129, accompanied by the following:

- (A) Evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph (1)(1)(ii)(G) of this section;
- (B) Evidence that the United States entity has been doing business as defined in paragraph (1)(1)(ii)(H) of this section for the previous year;
- (C) A statement of the duties performed by the beneficiary for the previous year and the duties the beneficiary will perform under the extended petition;
- (D) A statement describing the staffing of the new operation, including the number of employees and types of positions held accompanied by evidence of wages paid

to employees when the beneficiary will be employed in a managerial or executive capacity; and

(E) Evidence of the financial status of the United States operation.

Regulations at 8 C.F.R. § 214.2(1)(14)(ii) state that a visa petition under section 101(a)(15)(L) which involved the opening of a new office may be extended by filing a new Form I-129, accompanied by evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph 8 C.F.R. § 214.2(1)(1)(ii)(G).

Regulations at 8 C.F.R. § 214.2(1)(1)(ii)(G) state:

*Qualifying organization* means a United States or foreign firm, corporation, or other legal entity which:

(1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (1)(1)(ii) of this section;

(2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate, or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and

(3) Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

The regulations at 8 C.F.R. § 214.2(1)(1)(ii)(H) state that doing business means the regular, systematic, and continuous provision of goods and/or services by a qualifying organization. It does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad.

This visa petition was filed on October 23, 2001. Based upon the documentation submitted by the petitioner, the business transactions shown for the foreign entity were completed on August 14, 2000. None of the documentation submitted by the petitioner on appeal establishes that the claimed parent company, [REDACTED] LLC, was in operation abroad on the date that this visa petition was filed. The record contains no documentary evidence such as tax records, financial statements, pay receipts for employees or bank statements that would demonstrate that the foreign entity has maintained a viable business prior to the filing of the petition. The director's determination that the petitioner has not established that there is a continuing qualifying relationship between the petitioner and the claimed foreign entity is affirmed.

Beyond the decision of the director, the petitioner has not submitted sufficient evidence to establish that the beneficiary will be employed in a qualifying managerial or executive capacity in the United States. As the appeal will be dismissed on the grounds discussed, this issue need not be examined further.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.