

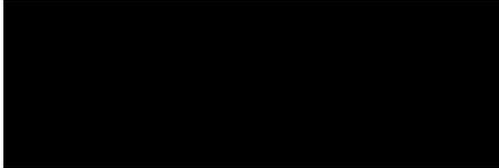
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U.S. Department of Homeland Security  
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U.S. Citizenship  
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File: LIN 02 124 51384 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



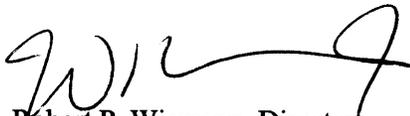
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision 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, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a drinking straw manufacturer that seeks to continue to employ the beneficiary temporarily in the United States as a senior electrical technician. The director determined that the petitioner had not established that the beneficiary would be employed in a specialized knowledge capacity.

On appeal, counsel states that the beneficiary has specialized knowledge and that he will set up the petitioner's drinking straw manufacturing process in the United States.

Counsel states that the petitioner's machinery was not in operation until October 2001 and that since then, the beneficiary has been responsible for keeping the machinery operating and for training American employees to do the operation and maintenance in the future. Counsel further states that as of February 2002, the company had sixteen employees and that the number of employees continues to grow. Counsel argues that until the petitioner is able to achieve full operation, it is necessary for the beneficiary to use his specialized knowledge of the specific equipment involved to continue to train more American workers.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

Regulations at 8 C.F.R. § 214.2(l)(3) state that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

At issue in this proceeding is whether the petitioner has established that the beneficiary will be employed in a capacity that involves specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides:

An alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in

international markets or has an advanced level of knowledge of processes and procedures of the company.

The regulations at 8 C.F.R. § 214.2(l)(1)(ii)(D) state:

*Specialized Knowledge* means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

Counsel states that the petitioner's equipment is manufactured in Korea and that specialized knowledge is needed to use it. Counsel further states that Mr. Kamaluddin's electrical knowledge regarding the specific equipment cannot be found within the United States. The petitioner has not presented evidence to substantiate these assertions. The non-technical description of the job listed on the petition is "Training of employees and maintenance." In a letter dated February 22, 2002 the petitioner lists the future duties as:

SEOIL Industrial USA, Inc. would like Mr. Kamaluddin to continue to work in the United States in order to help manage our business. As SEOIL Industrial Co., Ltd. Korea is one of the world's foremost manufacturers of drinking straws, it is important that individuals such as Mr. Kamaludin [sic] continue to work on the manufacturing process in the United States and train American workers in this technology. There is no one currently in the United States who has this specialized knowledge.

The description of the beneficiary's job duties indicates that the beneficiary will be working as a manager, as a trainer, and performing machinery maintenance. The petitioner has not articulated nor has counsel elaborated on any duty of the beneficiary that might be considered to require specialized knowledge. The evidence as provided in this case remains insufficient to warrant the granting of a nonimmigrant visa based upon the beneficiary's specialized knowledge. The plain meaning of the term specialized knowledge implies that which is significantly beyond the average in a given field or occupation. The petitioner has not demonstrated that the beneficiary's knowledge is advanced knowledge specifically relating to the petitioner's business, or that it is knowledge of the petitioner's product, processes, or procedures.

As held in *Matter of Penner*, 18 I&N Dec. 49, 54 (Comm. 1982), an L-1 "...petition may be approved for persons with specialized knowledge, not for skilled workers." Based on the evidence submitted, the services of the beneficiary as a manager, trainer and maintainer of machinery do not involve specialized knowledge as required for classification of the beneficiary as an intracompany transferee pursuant to section 101(a)(15)(L) of the Act. Therefore, the petition may not be approved.

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.