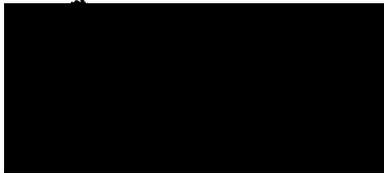




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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DA

FILE: SRC 04 108 51833 Office: TEXAS SERVICE CENTER Date: ~~NOV~~ 08 2005

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

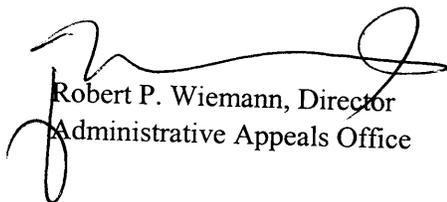
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 Director, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a Texas corporation that is engaged in the design and manufacture of custom electrical control equipment. The petitioner claims that it is the parent company of the beneficiary's foreign employer, Hatchmex S.A. de C.V., located in Ciudad Juarez, Mexico. The petitioner seeks to employ the beneficiary as its manager of product development for a seven-year period.

The director denied the petition concluding that the petitioner did not establish: (1) that the beneficiary was employed in a managerial or executive capacity with the foreign entity; or (2) that there is a qualifying relationship between the petitioner and the foreign entity. Specifically, the director found no evidence to establish that the foreign entity is currently doing business.

On appeal, the petitioner's president submits a two-page letter in which he describes the beneficiary's proposed duties for the United States entity, explains the parent-subsidiary relationship between the petitioner and the foreign entity, and notes: "During 2003 the activities of the subsidiary became dormant due to economic conditions." The petitioner indicates that the U.S. company intends to complete product design work previously undertaken by its Mexican subsidiary.

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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

On appeal, the petitioner does not object to the denial of the petition, nor does it specify any erroneous conclusion of law or statements of fact on the part of the director. Instead, the majority of the petitioner's July 19, 2004 letter on appeal is devoted to describing the duties the beneficiary is to perform in a managerial or executive capacity with the United States entity, an issue that was not discussed in the director's June 21, 2004 decision. The petitioner does not address the director's finding that the beneficiary had not been employed by the foreign entity in a qualifying capacity, beyond stating: "proof of this . . . position was previously provided on April 23, 2004." The petitioner refers to its response to the director's March 22, 2004 request for evidence, in which the director had requested a definitive statement regarding the beneficiary's foreign employment, including in part a list of all of the beneficiary's duties and the percentage of time spent in each duty, and job titles and descriptions for all of the beneficiary's subordinates. In response, the petitioner had submitted: (1) the beneficiary's resume, listing his job titles and dates of employment with the foreign entity since 1973; and (2) an untranslated organizational chart for the foreign entity dated May 2000. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the

petition. 8 C.F.R. § 103.2(b)(14). The director correctly determined that there is insufficient evidence to establish that the beneficiary was employed in a managerial or executive capacity with the foreign entity as required by 8 C.F.R. § 214.2(l)(3)(iv).

With respect to the director's findings that the petitioner had not established that the foreign entity was doing business, the petitioner concedes that its foreign subsidiary became "dormant" in 2003, and indicates that its business activities are being transferred to the United States. Consequently, it cannot be concluded that the petitioner is a qualifying organization doing business in the United States and at least one foreign country, or that it has a qualifying relationship with a foreign entity. *See* 8 C.F.R. § 214.2(l)(1)(ii)(G).

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal will be summarily dismissed.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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 summarily dismissed.