

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D7

FILE: SRC 05 153 51243 Office: TEXAS SERVICE CENTER Date: OCT 24 2006

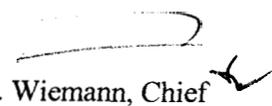
IN RE: Petitioner:
Beneficiary:

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: 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, Chief
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 dismissed.

The petitioner appears to be an Indian corporation registered to do business in the State of North Carolina and claims to be engaged in the business of information processing, manufacturing, sales and service. It seeks to temporarily employ the beneficiary as an application programmer at its branch office in the United States and filed a petition to classify the beneficiary as a nonimmigrant intracompany transferee with specialized knowledge. The director determined that the petitioner had not established that the beneficiary possessed the requisite specialized knowledge nor that the intended employment required specialized knowledge, and subsequently denied the petition.

On appeal, the petitioner asserts that no other outside employee could successfully fill the beneficiary's position. In support of this contention, the petitioner provides additional details regarding the beneficiary's position and qualifications.

To establish L-1 eligibility, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). Specifically, within three years preceding the beneficiary's application for admission into the United States, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) further states 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.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

This matter presents two related, but distinct, issues: (1) whether the beneficiary possesses specialized knowledge; and (2) whether the proposed employment is in a capacity that requires specialized knowledge.

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

For purposes of section 101(a)(15)(L), 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.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines "specialized knowledge" as:

[S]pecial 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.

In a letter dated May 6, 2005, the petitioner explained that the purpose of the beneficiary's transfer to the United States was to employ him on the company's Migration and Conversions Project. The petitioner further explained that the purpose of the petitioner's on-site team, of which the beneficiary would be a part, was to execute various porting, migration and upgrade projects. Additionally, the petitioner noted that the team would interface with the U.S. team and would coordinate activities with the Indian company for the successful execution of the project designed and developed using Mainframe technology.

With regard to the beneficiary, the petitioner stated that he joined the Indian branch of the company in May 2001 as an application programmer in the capacity of team leader. It further stated that the beneficiary obtained a Bachelor of Engineering in Electronics and Communication from Kuvempu University, India, in 1995. With regard to his proposed duties in the United States, the petitioner stated:

As an **Application Programmer**, [the beneficiary] will be the key member of the initial [Indian] onsite team at Charlotte. He will be primarily responsible for understanding the Migration applications, [the U.S. parent company's] business process, creating solutions architecture using his porting skills and will be instrumental in dissemination of the requirements and processes from [the U.S. parent company] to the delivery team in India. He will be utilizing his knowledge of Mainframe technologies such as COBOL, PL/1, DB2, JCL, CICS, VSAM, MVS/OS390, VM along with some [petitioner] and [non-petitioner] processes and tools that are imperative for the execution of the project.

* * *

In order to qualify for the position, the individual must have a strong background in [the petitioner's] *Porting Methodology* and knowledge of working with migration and conversion applications that will utilize the [petitioner's] Porting skills. Also, the individual must have a strong background in *porting/migrating Mainframe legacy applications and Retail applications*. In addition, the individual must have a solid background in various tools and processes that are imperative for the proposed job duties – WSAA, SCWB, CCCA, OPC and Relativity. These tools and processes have been discussed in details in the Specialized Knowledge paragraph. Also, as mentioned above, the **Migration and Conversions** project has been outsourced to the [petitioner] by the [U.S. parent company]. The project requirements have to be gathered and knowledge transfer has to be done to the delivery team in India. Therefore, it is important that the individual selected has to come from [the foreign office's] team in India. This individual should have a strong knowledge of the technical and deliverable capabilities of the team in India. Initially, this knowledge will be essential when scheduling work, estimating and guiding the team during knowledge transfer. Later, this

knowledge will be essential when working with the team for the delivery and execution of the project.

With regard to the beneficiary's possession of specialized knowledge, the petitioner stated:

[The beneficiary] has the specialized knowledge for the proposed job duties in the United States. This knowledge was achieved *primarily* through his employment experience with [the petitioner abroad]. [The beneficiary] has been working with the *Retail and Legacy applications* since his employment with [the foreign office] for the past forty eight months. He has gained strong knowledge of using [the petitioner's] *Porting Methodology*, which is critical for the proposed job duties in the US. Apart from it, [the beneficiary] has also gained specialized knowledge of working with mainframe Legacy applications for over seven years with both [the petitioner] and companies outside [the petitioner]. Within [the foreign office], he has gained solid background working with both Legacy and Retail applications designed in [the petitioner's] Mainframe technologies, such as PL/1, COBOL, DB2, JCL, CICS, MVS, OS/390, REXX, Assembler and VM. This knowledge is critical for the proposed job duties in the US.

The petitioner continued by providing detailed descriptions of the methodologies and processes described above.

The director found the initial evidence submitted with the petition insufficient to warrant a finding that the beneficiary possessed the required specialized knowledge. Consequently, a detailed request for evidence was issued on May 19, 2005, which requested more detailed evidence that the beneficiary possesses specialized knowledge that was uncommon, noteworthy or distinguished by some unusual quality and not generally known by practitioners in the field. Additionally, the director requested evidence that the beneficiary's knowledge of the processes and procedures of the company is apart from basic or elementary knowledge possessed by others in the company. Finally, the director requested information with regard to the beneficiary's training, in addition to a specific explanation as to why the beneficiary's knowledge was so uniquely different from other similarly trained persons in the industry, and specifically requested a statement describing the nature and extent of the beneficiary's role in creating and/or implementing the methodologies and processes of which he allegedly possessed specialized knowledge.

The petitioner responded on June 1, 2005. In response to the director's request, the petitioner provided a lengthy but vague restatement of the beneficiary's duties, qualifications, and involvement with the previously-identified processes and methodologies, emphasizing that the beneficiary's forty-eight months of employment with the foreign entity largely contributed to his superior qualifications. With regard to the director's query about other similarly-trained employees in the company, the petitioner stated that presently, there were three other individuals in addition to the beneficiary who had similar backgrounds and training. The petitioner continued by stating that none of these employees were presently able to come to the United States, which was irrelevant in the long run because the beneficiary was the most experienced employee of the group.

With regard to the beneficiary's training, the petitioner indicated that the beneficiary's specialized knowledge was acquired as a result of his extensive training. Specifically, the petitioner stated that the training schedule was as follows:

Porting Methodology

4 weeks on-the-job training

<i>Software Configuration and Work Bench</i>	4 weeks on-the-job training
<i>Relativity</i>	2 weeks on-the-job training
<i>Mainframe Technologies (COBOL, PL/I, DB2 CICS, VSAM, JCL, and IMS)</i>	6 months classroom training and continuous on-the-job training
<i>Operations, Planning and Control</i>	8 days on-the-job training
<i>COBOL and CICS Command Level Conversion Aid (CCCA)</i>	4 days on-the-job training
<i>Websphere Studio Asset Analyzer (WSAA)</i>	2 weeks on-the-job training
<i>Quality Management System (QMS) and Capability Maturity Model (CMM) process</i>	5 days classroom training and continuous on-the-job training

The petitioner provided further detail regarding the training required to perform the duties of the beneficiary's position:

A training, similar to the one discussed in the preceding paragraph is required to prepare an individual for the proffered position in the US. This training included critical training in [the petitioner's] processes, tools, methodology and Mainframe technologies.

Preparing an individual for the above training does not alone justify that the individual will be capable of working for the proffered position in the United States. But, the training will prove very significant for the individual to perform the proposed job duties in the United States. It is imperative that the individual develops a practical knowledge of applying the tools, processes and methodology in the Mainframe **Migration** and **Conversion** applications, as it is a critical requirement for the proffered position in the United States. This practical knowledge can only be achieved if the individual has developed an extensive and strong interaction with the Migration and Conversion applications through [the petitioner].

The director determined that the record failed to establish that the beneficiary possesses specialized knowledge. The director specifically noted that the petitioner had failed to show that the beneficiary's duties and training were significantly different from other similarly-qualified persons, or that the beneficiary's knowledge gained as a result thereof was uncommon or noteworthy in comparison. The director concluded that the evidence submitted did not establish that the beneficiary's knowledge was uncommon or distinct and distinguished from other practitioners in the field, and consequently denied the petition.

On appeal, the petitioner submits a brief which essentially restates the previously submitted assertions, and resubmits all previously-filed documents which outline the nature of the beneficiary's duties and qualifications. The petitioner concludes that based on the totality of the evidence submitted, it is clear that only a person employed abroad by the foreign entity, and trained specifically in the petitioner's porting methodology, could fill the proposed position of the beneficiary. The petitioner further states that since the beneficiary has undergone this training and has in excess of forty-eight months of experience with the foreign office, the beneficiary thus possesses specialized knowledge.

On review, the record does not contain sufficient evidence to establish that the beneficiary possesses specialized knowledge.

When examining the specialized knowledge capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). As required in the regulations, the petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *Id.*

In the present matter, the petitioner provided a lengthy but vague description of the beneficiary's employment in the foreign office, his intended employment in the U.S. office, and his responsibilities as an application programmer. Despite specific requests by the director, namely, what exactly set apart the beneficiary's knowledge from other similarly trained programmers in the field, the petitioner failed to provide such information. The petitioner has not sufficiently documented how the beneficiary's performance of the proposed job duties distinguishes his knowledge as specialized. Despite the petitioner's detailed discussion of the various projects that the beneficiary has worked on and the processes that he has been trained in, the record contains no definitive evidence supporting the contention that the beneficiary's knowledge is uncommon and more advanced than similarly trained professionals in the field.

The regulation at 8 C.F.R. § 214.2(l)(3)(viii) states that the director may request additional evidence in appropriate cases. Although specifically and clearly requested by the director, the petitioner failed to provide documentary evidence to support its claims that the beneficiary obtained a specialized level of knowledge through his work with the petitioner abroad. While the petitioner provided a list of various processes and procedures in which the beneficiary was trained, no documentation was submitted that distinguishes the petitioner from other information technology companies, and neither has the petitioner submitted any evidence of what other programmers under its employ do on a daily basis. It seems unlikely that the beneficiary is the only programmer that is capable to work on the mentioned projects, or that the beneficiary handled them solely by himself. Although the petitioner asserts on appeal that the original petition and response to the request for evidence both provided sufficient evidence to establish the beneficiary's qualifications for the benefit sought, the fact remains that there is no other evidence to compare it against in terms of the qualifications of other programmers in the industry and/or employed by the petitioner. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). In this case, the petitioner relies on the AAO to accept its uncorroborated assertions that the beneficiary possesses specialized knowledge, both prior to adjudication and again on appeal. However, these assertions do not constitute evidence. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

It is also appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)).¹ As stated by the Commissioner in

¹ Although the cited precedents pre-date the current statutory definition of "specialized knowledge," and counsel raises that very argument with regard to the director's reliance on *Matter of Penner* in support of the denial, the AAO finds them instructive. Other than deleting the former requirement that specialized knowledge had to be "proprietary," the 1990 Act did not significantly alter the definition of "specialized knowledge" from the prior INS interpretation of the term. The 1990 Committee Report does not reject, criticize, or even refer to any specific INS regulation or precedent decision interpreting the term. The

Matter of Penner, 18 I&N Dec. 49, 52 (Comm. 1982), when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business firm's operation.

Id. at 53.

In the present matter, the evidence of record demonstrates that the beneficiary is more akin to an employee whose skills and experience enable him to provide a specialized service, rather than an employee who has unusual duties, skills, or knowledge beyond that of an educated and/or skilled worker. Moreover, the petitioner's failure to submit a more detailed discussion of the beneficiary's day-to-day duties or the nature of the training he received creates a presumption of ineligibility. The petitioner acknowledged that it offered all its employees training similar to that received by the beneficiary. However, no specific details were provided, and no documentation that such training was actually offered to the beneficiary exists. More importantly, the petitioner on appeal asserts that the main requirement for the position in the U.S. is that the programmer be trained in the petitioner's porting methodology, which the petitioner acknowledges requires four weeks of on-the-job training. What remains unclear is why the beneficiary's knowledge is so specialized and unique, as alleged by the petitioner, despite the fact that his colleagues appear to have had the opportunity to attend the same training sessions. It is not unreasonable, therefore, to conclude that other similarly trained programmers have achieved or would achieve the same level of knowledge as the beneficiary by simply completing the same training, particularly the four weeks of on-the-job training in the petitioner's porting methodology.

It should be noted that the statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F. Supp. 9, 15 (D.D.C. 1990). The Congressional record specifically states that the L-1 category was intended for "key personnel." *See generally* H.R. Rep. No. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." *Webster's II New College Dictionary* 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of "crucial importance" or "key personnel" must rise above the level of the petitioner's average employee. Accordingly, based on the definition of "specialized knowledge" and the congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner's workforce.

Committee Report simply states that the Committee was recommending a statutory definition because of "[v]arying [*i.e.*, not specifically incorrect] interpretations by INS," H.R. Rep. No. 101-723(I), at 69, 1990 U.S.C.C.A.N. at 6749. Beyond that, the Committee Report simply restates the tautology that became section 214(c)(2)(B) of the Act. *Id.* The AAO concludes, therefore, the cited cases, as well as *Matter of Penner*, remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification.

Here, the petitioner's only contention that the beneficiary's knowledge is more advanced than other programmers in the field is its assertion that the beneficiary's experience, specifically his forty-eight months of work with the foreign office, has allowed him to gain an expertise in his field. Again, the petitioner has not provided any information pertaining to the exact day-to-day duties of the beneficiary as compared to the daily duties of other programmers, both working for the petitioner and in the industry in general. Nor did the petitioner distinguish the beneficiary's knowledge, work experience, or training from those of other employees. Moreover, there is no independent evidence corroborating the claims of the petitioner. Although documentation of the beneficiary's education is submitted, no documentation exists to establish that the beneficiary actually received the training claimed in the record. This lack of tangible evidence makes it impossible to classify the beneficiary's knowledge of the petitioner's processes and methodologies, and more specifically the Migrations and Conversions Project, as advanced and precludes a finding that the beneficiary's role is of crucial importance to the organization. As previously stated, simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

The claim that the beneficiary has specialized knowledge remains unsupported due to the failure to submit any documentation of the training he received or the manner in which the beneficiary, who holds degrees in engineering, essentially became an expert in the petitioner's technologies within a period of forty-eight months. In addition, although a limited discussion of the petitioner's products and services is submitted, it is somewhat hard to understand, thereby precluding the AAO from clearly understanding the actual role of the beneficiary in the petitioner's organization. While the beneficiary's skills and knowledge may contribute to the successfulness of the petitioning organization, this factor, by itself, does not constitute the possession of specialized knowledge. Therefore, while the beneficiary's contribution to the economic success of the corporation may be considered, the regulations specifically require that the beneficiary possess an "advanced level of knowledge" of the organization's process and procedures or a "special knowledge" of the petitioner's product, service, research, equipment, techniques, or management. 8 C.F.R. § 214.2(l)(1)(ii)(D). As determined above, the beneficiary does not satisfy the requirements for possessing specialized knowledge.

The petitioner's appeal essentially claims that the previously-submitted evidence clearly outlines the beneficiary's unique and uncommon knowledge, and thus qualifies the beneficiary as an intracompany transferee with specialized knowledge. Once again, the petitioner overlooks the fact that the beneficiary is undoubtedly one of many programmers in the workforce today. It is fair to conclude that most people employed in this line of work must also have an understanding of the basic premise of computer programming and engineering despite specializing in different areas. The petitioner does not, however, offer any evidence that the beneficiary has uncommon, advanced, or proprietary knowledge of the petitioner's unique processes or procedures.²

Merely claiming that the beneficiary has specialized knowledge without distinguishing the beneficiary from other application programmers in the field is insufficient for satisfying the burden of proof in this matter. It

² While a beneficiary is no longer required to have proprietary knowledge, such knowledge can still be a basis for this determination. Although the fact that a beneficiary has experience with a proprietary product or procedure does not serve as prima facie evidence that the beneficiary possesses specialized knowledge, when such a claim is made, Citizenship and Immigration Services (CIS) must carefully evaluate the claimed knowledge and the depth of the beneficiary's experience in order to determine whether it rises to the level of specialized knowledge as contemplated by 8 C.F.R. § 214.2(l)(1)(ii)(D).

appears that at best, the beneficiary is akin to a professional or skilled worker as opposed to an employee possessing specialized knowledge.

Additionally, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49. The decision noted that the 1970 House Report, H.R. No. 91-851 stated that the number of admissions under the L-1 classification "will not be large" and that "[t]he class of persons eligible for such nonimmigrant visas is narrowly drawn and will be carefully regulated by the Immigration and Naturalization Service." *Id.* at 51. The decision further noted that the House Report was silent on the subject of specialized knowledge but that, during the course of the sub-committee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed "L" category. In response to the Chairman's questions, various witnesses responded that they understood the legislation would allow "high-level people," "experts," individuals with "unique" skills, and that it would not include "lower categories" of workers or "skilled craft workers." *Id.* at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., *Immigration Act of 1970: Hearings on H.R. 445*, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded in *Matter of Penner* that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that the specialized knowledge worker classification was not intended for "all employees with any level of specialized knowledge." *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, "[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees." 18 I&N Dec. at 119. According to *Matter of Penner*, "[s]uch a conclusion would permit extremely large numbers of persons to qualify for the 'L-1' visa" rather than the "key personnel" that Congress specifically intended. 18 I&N Dec. at 53; *see also 1756, Inc.*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend to all employees with specialized knowledge, but rather to "key personnel" and "executives.").

The legislative history for the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc.*, 745 F. Supp. at 16. Based on the evidence presented, it is concluded that the beneficiary does not possess specialized knowledge; nor would the beneficiary be employed in a capacity requiring specialized knowledge. For this reason, the appeal will be dismissed.

Beyond the decision of the director, the minimal documentation of the parent company's and the U.S. entity's structure and relationship raises the issue of whether there is a qualifying relationship between a U.S. entity and a foreign entity pursuant to 8 C.F.R. § 214.2(l)(1)(ii)(G). The petitioner, [REDACTED] is an Indian-based company which claims to be the subsidiary of [REDACTED]. In a letter of support dated May 6, 2005, the petitioner claims that [REDACTED] owns 100% of the Indian entity. The record, however, indicates that the beneficiary is being transferred to work in North Carolina, specifically to work with a [REDACTED] on-site team. There is no evidence in the record to show that [REDACTED] is sending the beneficiary to work for [REDACTED] the U.S.-based parent company; rather, it appears that the beneficiary is merely being transferred to work for a branch of the Indian entity in the United States.

In defining the nonimmigrant classification, the regulations specifically provide for the temporary admission of an intracompany transferee "to the United States to be employed by a parent, *branch*, affiliate, or

subsidiary of [the foreign firm, corporation, or other legal entity]." 8 C.F.R. § 214.2(l)(1)(i) (emphasis added). The regulations define the term "branch" as "an operating division or office of the same organization housed in a different location." 8 C.F.R. § 214.2(l)(1)(ii)(J). CIS has recognized that the branch office of a foreign corporation may file a nonimmigrant petition for an intracompany transferee. *See Matter of Kloetti*, 18 I&N Dec. 295 (Reg. Comm. 1981); *Matter of Leblanc*, 13 I&N Dec. 816; *Matter of Schick*, 13 I&N Dec. 647 (Reg. Comm. 1970); *see also Matter of Penner*, 18 I&N Dec. at 54 (stating that a Canadian corporation may not petition for L-1B employees who are directly employed by the Canadian office rather than a United States office). When a foreign company establishes a branch in the United States, that branch is bound to the parent company through common ownership and management. A branch that is authorized to do business under United States law becomes, in effect, part of the national industry. *Matter of Schick*, 13 I&N Dec. at 649-50.

Probative evidence of a branch office would include the following: a state business license establishing that the foreign corporation is authorized to engage in business activities in the United States; copies of Internal Revenue Service (IRS) Form 1120-F, U.S. Income Tax Return of a Foreign Corporation; copies IRS Form 941, Employer's Quarterly Federal Tax Return, listing the branch office as the employer; copies of a lease for office space in the United States; and finally, any state tax forms that demonstrate that the petitioner is a branch office of a foreign entity. In this matter, there is no evidence that the [REDACTED] the Indian entity which employed the beneficiary abroad, is authorized to lawfully do business in the United States, or, more specifically, in North Carolina. Additionally, there is no evidence that the beneficiary would be working on the payroll of [REDACTED] the American parent company. **Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings.** *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Therefore, it cannot be concluded that a qualifying relationship exists between the petitioner and a qualifying organization in the United States. For this additional reason, the petition may not be approved.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a de novo basis).

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if she shows that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. at 1043, *aff'd*. 345 F.3d 683.

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 dismissed.