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



**U.S. Citizenship
and Immigration
Services**

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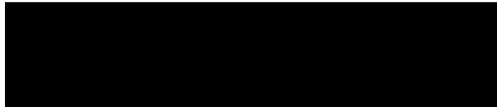


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File: EAC 07 145 52144 Office: VERMONT SERVICE CENTER

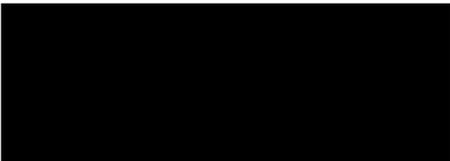
Date: NOV 01 2007

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)

IN 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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant visa petition seeking to extend the employment of the beneficiary in the position of president 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 corporation organized under the laws of the State of Florida and is allegedly a manufacturer of automobile air conditioning systems. The petitioner claims a qualifying relationship with Coroven, S.A., located in Venezuela.

The director denied the petition concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity.

The petitioner filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review.

A review of Citizenship and Immigration Services records indicates that this beneficiary is also the beneficiary of an approved L-1A nonimmigrant petition filed by the same petitioner, valid from September 10, 2007 until June 5, 2009 (EAC 07 172 52328). While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is either presently in L-1A status or is able to apply for the appropriate visa abroad, and the issues in this proceeding are moot. Therefore, this appeal is dismissed.¹

Furthermore, even though the instant appeal is moot, a review of the underlying record has revealed a serious inconsistency concerning the ownership and control of the petitioner. Although the petitioner asserts that it is 51% owned by a foreign entity, the petitioner's 2006 Form 1120, U.S. Corporation Income Tax Return, indicates in Schedule K that (1) the petitioner is not a subsidiary; (2) no corporation owned, directly or indirectly, 50% or more of the petitioner's voting stock; and (3) no foreign persons owned, directly or indirectly, at least 25% of the petitioner's stock. All three of these averments in the Form 1120 are inconsistent with the petitioner's assertion that it is 51% owned by the foreign entity. As this inconsistency may have been both similarly repeated and unresolved in the subsequently filed petition ultimately approved by Citizenship and Immigration Services, the record in EAC 07 172 52328 shall be reviewed for possible revocation pursuant to 8 C.F.R. § 214.2(l)(9)(iii).

¹It is noted that the petitioner requested a three-year period of stay for the beneficiary in the instant Form I-129. However, as the beneficiary's stay may only be extended for a period of two years, the director's approval of the subsequently filed petition (EAC 07 172 52328) for one year less than what was requested in the instant petition does not change the fact that the instant appeal is moot. Neither petition could have been approved for more than two years. See 8 C.F.R. § 214.2(l)(15)(ii). Moreover, the appeal presently before the AAO does not concern the extension of stay request. There is no appeal from the denial of an extension of stay filed on Form I-129. 8 C.F.R. § 214.1(c)(5).

ORDER: The appeal is dismissed as moot.

FURTHER ORDERED: The director shall review the subsequently approved L-1 nonimmigrant petition approved on behalf of the beneficiary for possible revocation pursuant to 8 C.F.R. § 214.2(1)(9).