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U.S. Citizenship
and Immigration
Services

17

[Redacted]

File: [Redacted]
LIN 06 090 52371

Office: NEBRASKA SERVICE CENTER

Date: **APR 04 2008**

IN RE: Petitioner:
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)

IN BEHALF OF PETITIONER:

[Redacted]

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, Nebraska 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 filed this nonimmigrant petition seeking to extend the employment of the beneficiary as its server manager 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 Delaware that is engaged in providing telecommunications and information technology services. The petitioner seeks to employ the beneficiary from February 17, 2006 until February 17, 2008.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary was employed abroad by a qualifying organization. The petitioner in prior petitions had represented the beneficiary's foreign employer as DaimlerChrysler (UK) Ltd. It was asserted in the Form I-129S, Nonimmigrant Petition based on a Blanket L Petition, and in a subsequently filed Form I-140, that the beneficiary had been employed overseas by DaimlerChrysler (UK) Ltd. from April 1998 until his entrance into the United States in January 2001. As it appears that the petitioner did not, and does not presently, have a qualifying relationship with DaimlerChrysler (UK) Ltd., the petitioner now asserts that the beneficiary's foreign employer was actually debis IT Services (UK) Ltd., which was, and still is, a claimed affiliate of the petitioner.

The director determined that the instant record fails to resolve the petitioner's earlier identification of DaimlerChrysler (UK) Ltd. as the beneficiary's last foreign employer and, thus, the petitioner has failed to establish that the beneficiary is eligible for the requested visa classification.

On appeal, counsel argues that prior to transferring to the United States as a nonimmigrant, the beneficiary was employed by debis IT Services (UK) Ltd., not DaimlerChrysler (UK) Ltd., as represented on the previously denied I-140 petition and on the blanket L petition. Counsel's claims that debis IT Services (UK) Ltd. and the United States entity enjoyed a qualifying relationship on the date of filing. Counsel further asserts that, even if the beneficiary's foreign employer had been DaimlerChrysler (UK) Ltd., this employer also owned and controlled the petitioner under a Joint Venture Agreement with Deutsche Telekom AG. In an appellate brief, counsel addresses discrepancies raised by the director with respect to the beneficiary's foreign employer, and submits documentation of the beneficiary's purported employment with debis IT Services (UK) Ltd. prior to his transfer to the United States as a nonimmigrant. The petitioner also submits a copy of the relevant Joint Venture Agreement.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, 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 within three years preceding the beneficiary's application for admission into the United States. 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) 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.

As noted above, the regulation at 8 C.F.R. § 214.2(l)(3)(i) states that a petition filed on Form I-129 shall be accompanied by evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations. Title 8 C.F.R. § 214.2(i)(1)(ii)(G) defines a "qualifying organization" as a firm, corporation, or other legal entity which "meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section." "Subsidiary" is defined as a corporation "of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity." 8 C.F.R. § 214.2(l)(1)(ii)(K). "Affiliate" is defined in pertinent part as "[o]ne of two subsidiaries both of which are owned and controlled by the same parent or individual." 8 C.F.R. § 214.2(l)(1)(ii)(L)(1).

The primary issue in this proceeding is whether the instant record resolves the petitioner's earlier identification of DaimlerChrysler (UK) Ltd. as the beneficiary's last foreign employer so as to demonstrate the beneficiary's eligibility for the requested visa classification.

The petitioner filed the instant Form I-129 petition on February 3, 2006. At this time, the beneficiary was employed by the petitioning entity, T-Systems North America, Inc., as an L-1A nonimmigrant intracompany transferee. The beneficiary initially entered the United States on January 23, 2001 on a Blanket L petition of DaimlerChrysler Corporation.¹ According to the Form I-129S, Nonimmigrant Petition based on a Blanket L

¹The blanket L petition procedures allow for the expedited processing of L visas for petitioners with annual sales of \$25 million, a United States workforce of 1,000 employees, or if the employer can demonstrate that it

Petition, the beneficiary had been employed overseas by DaimlerChrysler (UK) Ltd. from April 1998 until his entrance into the United States in January 2001 to work for DaimlerChrysler Corporation's Warrenville Support Center in Lisle, Illinois. Upon arrival in the United States, the beneficiary commenced employment with T-Systems North America, Inc., the petitioning entity, not DaimlerChrysler Corporation, as represented in the Form I-129S. The AAO notes that DaimlerChrysler (UK) Ltd., formerly Mercedes-Benz (UK) Ltd., is included on the list of qualifying organizations attached to the Form I-797 Approval Notice; however, debis IT Services (UK) Ltd. is not identified as an approved qualifying organization.

On October 29, 2003, the petitioner filed an employment-based visa petition seeking to extend the beneficiary's classification as a multinational manager or executive and to employ the beneficiary as its operations program manager (LIN 04 020 51050). With this filing, the petitioner provided a copy of the Form I-129S submitted by the beneficiary to the U.S. Embassy in London on which the petitioner had noted the beneficiary's foreign employment with DaimlerChrysler (UK) Ltd. from April 1998 until January 2001 and his proposed employment in the United States at DaimlerChrysler Corporation's Warrenville Support Center.

In connection with this earlier proceeding, the petitioner submitted a September 15, 2004 letter in response to the director's request for clarification of a qualifying relationship between the United States company and DaimlerChrysler (UK) Ltd., in which it stated that in 1998, the time at which the blanket petition was filed, the beneficiary was employed by Mercedes-Benz (UK) Ltd., which was subsequently named DaimlerChrysler (UK) Ltd. The petitioner discussed the purported relationship between DaimlerChrysler (UK) Ltd. and the petitioning entity. There was no mention of the beneficiary's employment with debis IT Services (UK) Ltd.

Counsel for the petitioner also submitted a copy of a January 12, 2001 letter submitted with the Blanket L petition, in which the immigration administrator for DaimlerChrysler discussed the beneficiary's employment in the United Kingdom, stating that he "has been a DaimlerChrysler employee at our affiliate company, DaimlerChrysler (UK) Ltd., in Milton Keynes, England, from February 1, 1988 to the present – nearly 13 years." Counsel also provided a copy of the beneficiary's employee badge from DaimlerChrysler (UK) Ltd. and a copy of a "consultant profile" of the beneficiary, which identified his employment with DaimlerChrysler from the year 2000 through the present. The AAO notes that the consultant profile does not reflect a date on which it was generated, yet, based on the provided employment history, it was prepared sometime during or after the year 2000.

The director denied the original I-140 immigrant visa petition, noting that it was unclear why DaimlerChrysler's blanket petition would have been used as evidence of a qualifying relationship, as there was no indication that DaimlerChrysler was affiliated with the United States petitioner.

received approval of at least 10 L petitions in the previous year. *See generally* 8 C.F.R. § 214.2(l)(4). If approved as a blanket L employer, Citizenship and Immigration Services (CIS) creates a blanket approval notice with a list of the petitioner's pre-approved branch offices, affiliates, and subsidiaries that allows the employer to transfer employees among the companies on an expedited basis.

In a January 25, 2006 decision, the AAO dismissed the petitioner's appeal of the director's denial concluding that the petitioner had not demonstrated the existence of a qualifying relationship between the beneficiary's overseas employer, DaimlerChrysler (UK) Ltd., and the petitioning entity. In the brief submitted in connection with the earlier appellate proceeding, counsel again represented DaimlerChrysler (UK) Ltd. as the beneficiary's last foreign overseas employer before transferring to the United States.

On October 14, 2005, after the denial of the first petition but prior to the AAO's decision on the appeal, the petitioner filed the second I-140 petition (LIN 06 016 51285). In connection with this proceeding, the petitioner submitted a September 12, 2005 letter, in which it changed its claim and identified the beneficiary's foreign employer as debis IT Services (UK) Ltd. (presently known as T-Systems Ltd), not DaimlerChrysler (UK) Ltd. The petitioner claimed the existence of an affiliate relationship between debis IT Services (UK) Ltd. and T-Systems North America, Inc., stating that each are indirect subsidiaries of the German company Deutsche Telekom AG. The AAO notes that in the second I-140 petition, the petitioner did not address the beneficiary's former employment with DaimlerChrysler (UK) Ltd., or explain its earlier claims that the beneficiary had been continuously employed with DaimlerChrysler (UK) Ltd. from 1998 through the time of his transfer to the United States under DaimlerChrysler's Blanket L petition. Additionally, none of the accompanying organizational charts or corporate documentation identifies DaimlerChrysler (UK) Ltd.

Although the director initially approved the petition on November 30, 2005, the director issued a Notice of Intent to Revoke on March 8, 2006, noting that the petitioner's representation of the beneficiary's foreign employer was not consistent with the claim in its earlier Form I-140 petition that the beneficiary was employed by DaimlerChrysler (UK) Ltd. immediately prior to his transfer to the United States. On April 5, 2006, the director revoked the petition and the AAO dismissed the subsequently filed appeal.

On February 3, 2006, prior to the revocation of the approval of the second Form I-140 petition, the petitioner filed the instant Form I-129 seeking to extend the employment of the beneficiary as an L-1A nonimmigrant intracompany transferee. Similar to the approved, and subsequently revoked, Form I-140 petition, the petitioner in the instant matter again changes its earlier claim and now identifies the beneficiary's foreign employer as debis IT Services (UK) Ltd. (presently known as T-Systems Ltd), and not as DaimlerChrysler (UK) Ltd. The petitioner claims the existence of an affiliate relationship between debis IT Services (UK) Ltd. and T-Systems North America, Inc., stating that each are indirect subsidiaries of the German company Deutsche Telekom AG.

In a March 14, 2006 Notice of Intent to Deny, the director addressed the beneficiary's entrance into the United States as an L-1A nonimmigrant under DaimlerChrysler's blanket petition, and noted that neither the petitioning entity nor the beneficiary's claimed foreign employer were identified as a qualifying organization on the blanket petition. The director further stated:

[I]t appears that the beneficiary's foreign employer was DaimlerChrysler and the beneficiary's U.S. employer, T-Systems North America, Inc. (formerly debis IT Services North America), has been majority or completely, indirectly owned and controlled by Deutsche Telekom AG. Further, there is not, nor has there ever been, a qualifying relationship between you (i.e. T-

Systems North America, Inc.) and the beneficiary's foreign employer (i.e. DaimlerChrysler UK Ltd.). Given this, it appears that the beneficiary's initial L-1 status was issued in error.

Counsel responded in a letter dated April 11, 2006. In her letter, counsel stated that the beneficiary had been employed by DaimlerChrysler (UK) Ltd. from February 1988 through March 31, 1998, at which point he began employment with debis IT Services (UK) Ltd. until his transfer to the United States on DaimlerChrysler's Blanket L petition. Counsel claims that inaccuracy in the job description provided by DaimlerChrysler in its blanket petition resulted in the confusion and belief that DaimlerChrysler (UK) Ltd. and debis IT Services (UK) Ltd. were the same company. Counsel stated in part:

Evidence at the Point of First Transfer: DaimlerChrysler transferred [the beneficiary] based on his employment with DaimlerChrysler UK Ltd. which is permissible as he worked there within three (3) years prior to his transfer. In February 2001 when [the beneficiary] was transferred by DaimlerChrysler to its joint venture subsidiary debis IT Services North America, Inc., that subsidiary (now the Petitioner) would have no reason to believe that the transfer was improper because:

- i) There is no requirement to amend the blanket if the company name changes;
- ii) There is no requirement to amend an individual's visa if they move between companies on the blanket;
- iii) Personnel at debis IT Services North America, Inc. believed in good faith that [the beneficiary's] transfer to this joint venture between DaimlerChrysler and Deutsche Telekom was properly completed and that all the entities were on the blanket.
- iv) DaimlerChrysler was aware that [the beneficiary's] offer letter was from debis. DaimlerChrysler stating the company as "The Warrenville Support Center," and alternatively "the DaimlerChrysler IT Support Center located in Lisle, Illinois" which is the generic reference to debis IT Services North America, Inc. This characterization of the company would not seem unusual to any personnel at debis. Debis personnel are entitled to rely on the initial transfer as properly completed.

The Petitioner does not have a copy of the U.S. [c]ompanies DaimlerChrysler had on its blanket and the Petitioner relied on DaimlerChrysler to handle this transfer properly.

* * *

Conclusion: [The beneficiary] has two (2) UK employers; both would have allowed him to transfer to the United States. Petitioner did not transfer [the beneficiary] to the United States, but relied on DaimlerChrysler to do so. Petitioner cannot assess the correctness of DaimlerChrysler's blanket L transfer for [the beneficiary]. Since the companies are all related it appeared to Petitioner that there was nothing wrong with the initial transfer. [The

beneficiary] at a minimum was eligible for an individual L-1 transfer if not the blanket; hence an error in the blanket transfer if any is not material. The present Petitioner and beneficiary should not be prejudiced by the possibility of an error in the blanket L because the Petitioner carefully amended [the beneficiary's] visa with every corporate change including the most important, the buy-out of DaimlerChrysler.

[The beneficiary's] UK employer from April 1998 to the date of his transfer was DebisIT [sic] Services UK Ltd. (now T-Systems, Ltd[.]), which was purchase[d] in the joint venture buy-out preserving the qualifying corporate relationship.

There is no conclusive evidence that the blanket transfer was done incorrectly. Petitioner correctly amended [the beneficiary's] L-1A visa for all material changes to the corporate relationship and showed that a chain of qualifying relationships were maintained.

On March 25, 2006, the director denied the petition concluding that the petitioner had not demonstrated that the beneficiary's foreign employer and the petitioning entity enjoyed a qualifying relationship on the filing date. The director noted discrepancies in the beneficiary's foreign employment, and concluded that the petitioner failed to reconcile its current assertion that the beneficiary was employed abroad by debis IT Services UK Ltd. with its earlier claims that DaimlerChrysler (UK) Ltd. was the beneficiary's foreign employer. The director further concluded that the petitioner had not established a qualifying relationship between the petitioning entity and DaimlerChrysler (UK) Ltd., the company deemed by the director to have employed the beneficiary immediately prior to his entrance into the United States as a nonimmigrant.

On appeal, counsel challenges the director's finding, stating that the beneficiary was employed by debis IT Services (UK) Ltd. from April 1, 1998 through February 9, 2001, at which time he entered the United States as an L-1A nonimmigrant under DaimlerChrysler's blanket petition. Counsel states that at the time of petitioning for the beneficiary's employment in the United States, the petitioner was not aware of a distinction between debis IT Services (UK) Ltd. and DaimlerChrysler (UK) Ltd. As evidence of the beneficiary's prior overseas employment, counsel for the petitioner submitted: (1) an October 19, 2005 letter, in which the human resources administrator of T-Systems Ltd., formerly debis IT Services (UK) Ltd., stated that the beneficiary had been employed with the foreign company from April 1, 1998 through February 9, 2001; (2) a March 20, 2006 facsimile from a human resources senior assistant of DaimlerChrysler (UK) Ltd., identifying the beneficiary's dates of employment with the company as February 1, 1988 through March 31, 1998; (3) a copy of an employment offer from debis IT Services (UK) Ltd. to the beneficiary dated February 23, 1998; (4) letters from debis IT Services (UK) Ltd. dated December 17, 1998, December 6, 1999 and December 19, 2000; (5) a January 30, 2001 letter from debis IT Services (UK) Ltd. acknowledging the beneficiary's resignation from the foreign company; (6) copies of the beneficiary's "confidential pay advices" reflecting the wages paid by debis IT Services (UK) Ltd. to the beneficiary in the months of January 2000, and October through December 2000, May and December 1999, and April, June and September 1998; (7) copies of the beneficiary's years 1999 and 2000 Certificate of Pay, Income Tax and National Insurance contributions; and (8) a copy of the beneficiary's March 1998 statement of wages paid by Mercedes-Benz (UK) Ltd. and his 1998 tax certificate identifying Mercedes-Benz as his employer. Counsel also provided copies of the

previously referenced Form I-129S and DaimlerChrysler's January 12, 2001 letter offered in connection with its Blanket L petition filed on behalf of the beneficiary.

Upon review, counsel's assertions are not persuasive. The record does not contain sufficient independent and objective evidence to clarify which of the petitioner's conflicting assertions represent the true facts of this case. Specifically, the AAO cannot determine whether the beneficiary was employed with DaimlerChrysler (UK) Ltd. immediately prior to his transfer to the United States, or whether debis IT Services (UK) Ltd. was the beneficiary's last foreign employer. The unresolved inconsistencies prevent the AAO from determining the existence of the requisite qualifying relationship for the instant visa petition.

In establishing a beneficiary's eligibility for the requested visa classification, the petitioner is obligated to clarify the inconsistent and conflicting testimony by "independent and objective evidence." *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir. 2003). However, anytime a petition includes multiple material discrepancies, and the petitioner fails to resolve the discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. *Id.*

Here, the record contains conflicting documentation and discrepant claims as to which foreign company served as the beneficiary's employer immediately prior to his transfer to the United States as a nonimmigrant. Although the beneficiary claims in his Form G-325A dated September 27, 2005 to have been employed abroad by "T-Systems/debis UK," counsel fails to address the repeated claims made by DaimlerChrysler in its January 12, 2001 letter and on the Form I-129S of the beneficiary's continuous thirteen-year employment with DaimlerChrysler (UK) Ltd. This omission is particularly important considering both the January 12, 2001 letter and the Form I-129S were submitted by counsel as evidence in the instant proceeding, and were incorporated into the record during earlier I-140 proceedings. The AAO again emphasizes that in the January 12, 2001 letter, DaimlerChrysler made no mention of the beneficiary's purported overseas employment with debis IT Services (UK) Ltd., stating instead that "from April, 1998 to the present, [the beneficiary] has been employed in the managerial position of Senior Technical Consultant (Manager), DaimlerChrysler UK Limited."

The question remains whether the beneficiary was in fact employed by DaimlerChrysler (UK) Ltd. until his transfer to the United States in January 2001 or if DaimlerChrysler represented the beneficiary as being an employee of DaimlerChrysler (UK) Ltd. for thirteen years in order to exploit the relaxed requirements of the blanket L petition process. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591.

Counsel did not specifically explain the purported inaccuracies represented in the January 12, 2001 letter and the Form I-129S, or reconcile these representations with the claims made by T-Systems Ltd., formerly debis IT Services (UK) Ltd. In an October 19, 2005 letter, T-Systems Ltd. stated that the beneficiary was employed with that company until February 2001. Counsel seems to view these inconsistencies as merely a mistake,

asserting that the record indicates that the beneficiary had two different employers during the three years prior to his transfer to the United States. In fact, the record does not contain independent and objective evidence demonstrating that the beneficiary was employed by debis IT Services (UK) Ltd. While counsel offered on appeal copies of the beneficiary's pay receipts from debis IT Services (UK) Ltd., they are not sufficient to establish his employment with the company during the claimed period as the dates of employment are not in agreement with those listed elsewhere in the record. Furthermore, the pay receipts do not account for a full year of "continuous" employment as required by the regulations. 8 C.F.R. § 214.2(l)(3)(iii). Counsel did not attempt to clarify the conflicting letters and claimed dates of employment, or offer an explanation as to why, prior to the instant filing, DaimlerChrysler (UK) Ltd. was repeatedly represented as the beneficiary's last overseas employer.

In light of the unresolved inconsistencies in the documentary evidence that is relevant and essential to determining the beneficiary's eligibility for the requested visa classification, the AAO cannot accept counsel's attempt to simply overlook these discrepancies or dismiss them as misunderstandings or the result of confusion. Again, the petitioner is obligated to clarify the inconsistent and conflicting testimony by independent and objective evidence. *Id.* at 591-92.

Counsel further alleges that regardless of the inconsistent statements made by DaimlerChrysler on its blanket petition, the beneficiary's transfer to the United States as a nonimmigrant was permissible as the beneficiary worked for DaimlerChrysler (UK) Ltd. within three years of his entrance into the United States. Counsel's claim is misplaced.

The pre-approved list of the petitioner's qualifying branch offices, subsidiaries, and affiliates is critical to the processing of a blanket L petition. The regulation at 8 C.F.R. § 214.2(l)(5)(ii)(D) states in pertinent part that when seeking admission to the United States under a blanket petition, the adjudicating immigration or consular officer "shall determine further whether the alien's immediate prior year of continuous employment abroad was with an organization named in the petition" In addition, the officer "shall determine whether the position in which the [beneficiary] will be employed in the United States is with an organization named in the approved petition."

In the instant matter, DaimlerChrysler (UK) Ltd., formerly Mercedes-Benz (UK) Ltd., is named on DaimlerChrysler's blanket petition; neither debis IT Services (UK) Ltd. nor the petitioner is identified on the blanket petition as an approved qualifying organization. According to counsel, the beneficiary was employed by debis IT Services (UK) Ltd. the year immediately prior to seeking L classification under the blanket petition. Based on counsel's claim, under 8 C.F.R. § 214.2(l)(5)(ii)(D), the beneficiary would not be eligible for the L classification under DaimlerChrysler's blanket petition. The conflicting claims as to the beneficiary's last overseas employer restricts the analysis of whether the beneficiary's L-1 visa was properly granted.

Moreover, the petitioner, then known as debis IT Systems North America Inc., was not listed on the blanket L petition. Based on the I-129S blanket petition (LIN 99 051 51729) and the visa issued by the U.S. Embassy in London, the petitioner identified DaimlerChrysler Corporation as the beneficiary's intended employer at the

time of the transfer. Both the Form I-129S and January 12, 2001 letter submitted to the United States Embassy in London indicated that the beneficiary would work for the Blanket L petitioner, "DaimlerChrysler IT Support Center" in Lisle, Illinois. Counsel noted that the petitioner did not possess a copy of organizations approved on DaimlerChrysler's blanket petition, and claimed that the petitioner believed that the beneficiary was properly transferred to work at its company in the United States. Counsel also claims that the Form I-129S states the corporate name generically "The Warrenville Support Center" and "DaimlerChrysler IT Support Center," which is how the petitioning entity is captioned in the publicly available information. This assertion is not supported by the record. Instead, the record contains a copy of a January 12, 2001 job offer letter on debis IT Services North America, Inc. letterhead, signed by the beneficiary in February 2001, after his visa was issued. Based on the date of this letter, it appears that it was not submitted to the United States Embassy in London with the beneficiary's Blanket L-1A application, and thus the consular officer would have reasonably assumed that the beneficiary would be working for DaimlerChrysler Corporation in the United States, which was not the case. Instead, the beneficiary worked for the petitioner. Accordingly, the beneficiary's blanket L-1 visa appears to have been issued in error based on a misrepresentation by DaimlerChrysler.

Based on the foregoing discussion, the petitioner has not resolved the critical issue of which company employed the beneficiary immediately before his transfer to the United States under DaimlerChrysler's Blanket L petition. Again, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591. In this case, the discrepancies and errors catalogued above preclude a finding that the beneficiary is eligible for the requested visa classification. Accordingly, the appeal will be dismissed.

Finally, counsel argues that, assuming DaimlerChrysler (UK) Ltd. had employed the beneficiary in the United Kingdom, his transfer to the United States was nevertheless proper because DaimlerChrysler (UK) Ltd. had a qualifying relationship with the petitioner, debis IT Services (UK) Ltd., now T-Systems Ltd., as a 49.9% owner. In support of this assertion, the petitioner submitted a copy of a Joint Venture Agreement between DaimlerChrysler and Deutsche Telekom pertaining indirectly to the control of the petitioner.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988); see also *Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982). In the context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International*, 19 I&N Dec. at 595.

Upon review, the petitioner has failed to establish that DaimlerChrysler has ever both owned and "controlled" the petitioner as a minority interest owner. As noted above, Deutsche Telekom owned a 50.1% interest in the alleged joint venture. While the Joint Venture Agreement indicates that DaimlerChrysler and Deutsche Telekom agreed to share certain management roles and to make certain decisions jointly, the record is devoid of evidence establishing that Deutsche Telekom, as the majority owner, has ceded ultimate legal control over the enterprise either contractually or under local law. In immigration proceedings, the law of a foreign country is a question of fact which must be proven if the petitioner relies on it to establish eligibility for an immigration benefit. *Matter of Annang*, 14 I&N Dec. 502 (BIA 1973). 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, even if DaimlerChrysler had employed the beneficiary abroad, the petitioner has failed to establish that this employer has, or ever had, a qualifying relationship with the petitioner.

Beyond the decision of the director, the petitioner has failed to establish (1) that the beneficiary has been employed in a primarily managerial or executive capacity with the foreign entity; or (2) that the beneficiary will be employed in the United States in a primarily managerial or executive capacity. 8 C.F.R. § 214.2(l)(3). The petitioner failed to describe the beneficiary as performing primarily qualifying duties. To the contrary, the position descriptions provided by the petitioner describe the beneficiary as primarily performing technical services and not as managing a subordinate staff of supervisors or professionals in the performance of these non-qualifying tasks. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. See sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); see also *Matter of Church Scientology International*, 19 I&N Dec. at 604. Furthermore, the petitioner failed to describe the duties of the beneficiary's purported subordinates. Absent detailed descriptions of the duties of both the beneficiary and his purported subordinates, it is impossible for CIS to discern whether the beneficiary was, or will be, relieved of the need to primarily perform the non-qualifying tasks inherent to the duties ascribed to him.

Accordingly, the petitioner has not established that the beneficiary has been, or will be, employed in a primarily managerial or executive capacity, and the petition may not be approved for this reason.

The initial approval of an L-1A new office petition does not preclude CIS from denying an extension of the original visa based on a reassessment of petitioner's qualifications. *Texas A&M Univ.*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004). Despite any number of previously approved petitions, CIS does not have any authority to confer an immigration benefit when the petitioner fails to meet its burden of proof in a subsequent petition. See section 291 of the Act, 8 U.S.C. § 1361.

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

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(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).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc.*, 229 F. Supp. 2d at 1043.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.