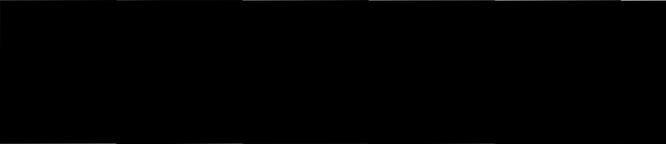


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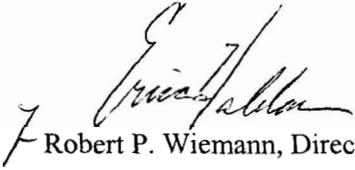
FILE: EAC 07 031 51690 Office: VERMONT SERVICE CENTER Date: **AUG 27 2008**

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 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, a trading company, seeks to temporarily employ the beneficiary as an information technology specialist 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 established neither that the beneficiary possesses specialized knowledge nor that the intended employment required specialized knowledge. In addition, the director found that the petitioner had failed to submit evidence demonstrating that the U.S. entity was doing business as defined by the regulations or that the petitioner maintained a qualifying relationship with an entity abroad.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion, and forwarded the appeal to the AAO for review. On appeal, counsel submits a brief and asserts that there are substantial errors in fact, law and judgment. It is noted that in support of the appeal, counsel for the petitioner resubmits a copy of the petition with the documents it submitted in response to the request for evidence. Counsel also contends that the denial misconstrues the requirements for specialized knowledge as outlined in a 2002 Citizenship and Immigration Services (CIS) memorandum.

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 submitted with the petition, the petitioner stated:

The invaluable services and presence of [the beneficiary] are expected to be required for a limited time only as an Information Technology Specialist. [The beneficiary’s] primary function is to establish the technical and support procedure and operation of [the foreign entity] in the United States. Therefore, at the conclusion of his L-1B status, it is [the beneficiary’s] unequivocal intention to leave the U.S. and return to Egypt, which is his place of permanent abode.

The petitioner also submitted certifications for the beneficiary. The first certificate, issued by the foreign entity, certified that the beneficiary had been working for the company abroad since September 2005 as “technical support,” and indicated that he was responsible for all support tasks within the PCS, Network, and Sales, and that he also supervised and planned the technical support and help desk system. The second certificate, issued on May 10, 2006 by Mansoura College Language Schools, indicated that the beneficiary received an award of distinction for superior achievement and excellence of performance in “Annual Show.” The third certificate indicates that from January 8, 2004 to November 3, 2005, the beneficiary attended 200 hours of training and passed exams in Microsoft Office 2003; Word; Internet; Front Page; Outlook 2003; Power Point; and Excel. Finally, the last certificate, issued on November 13, 2005 by the Faculty of Science at Cairo University, indicates that the beneficiary obtained a licentiate of Arabic Language and Islamic Science in September 2005.

In a request for evidence issued on December 13, 2006, the director outlined the requirements necessary for establishing the possession of specialized knowledge, specifically referring to a 1994 INS

memorandum. Memorandum from James A. Puleo, Acting Associate Commissioner, *Interpretation of Specialized Knowledge*, CO 214L-P (March 9, 1994). The director requested that the petitioner provide, including but not limited to, evidence that the beneficiary's knowledge is uncommon, noteworthy, or distinguished, and not generally known by practitioners in the field; evidence that the beneficiary's knowledge of the company's processes and procedures is apart from the basic knowledge possessed by others; evidence relating to unique methodologies, tools, programs or applications used by the petitioner; an explanation of the equipment, system, product, technique or service of which the beneficiary has specialized knowledge; documentation detailing the manner in which the beneficiary gained his specialized knowledge, including an explanation of any completed training courses and certification of completion; the number of workers employed in a position similar to the beneficiary, and whether they received comparable training; and the beneficiary's resume. In addition, the director also requested evidence pertaining to the ownership of the U.S. entity and evidence demonstrating that the U.S. entity was doing business as required by the regulations.

The petitioner submitted a lengthy response, which included a number of documents pertaining to the beneficiary's duties abroad, as well as certifications he has received and training he has completed. With regard to his specialized knowledge, the petitioner provided the following brief overview of the beneficiary's qualifications:

- The candidate is capable of professionally maintaining the mother board which is his major specialization.
- Computer maintenance technician
- The gained experience through training courses studying the specialization thoroughly and working on hand for more than 2 years.
- The candidate's experience cannot be transferred in at least two years due to his proficiency and detailed work with the mentioned above.
- He doesn't [owe] any financials or payments to anyone including his work.

In addition, the response included an itemized list of documents, which included certificates of achievement awarded to the beneficiary, the beneficiary's resume, and copies of class lectures.

The director determined that the record did not establish employment of the beneficiary in a position that requires specialized knowledge, nor did it establish that the beneficiary possesses specialized knowledge. The director noted that while it appeared from the evidence submitted that the beneficiary would draw on his experience with particular proprietary tools and methodologies, most of his duties could be performed by any qualified consultant. Specifically, the director found that all skills and tools used by the beneficiary are available to other IT specialists, and therefore the record was insufficient to demonstrate that the beneficiary possessed specialized knowledge and that the proffered position required specialized knowledge. Finally, the director noted that although the petitioner submitted a copy of a recently approved petition for another specialized knowledge worker, the director concluded that this evidence was insufficient to demonstrate that the beneficiary in this petition was key personnel or that the proffered position in the Untied States required a person with specialized knowledge. The director consequently denied the petition on March 2, 2007.

Counsel submits a brief on appeal in support of the petitioner's assertion that the beneficiary possesses specialized knowledge. It is noted that the brief is virtually identical in content to the response submitted to the request for evidence on February 19, 2007. Specifically, counsel again refers to the 2002 CIS policy memorandum by Fujie Ohata that provides that it is not necessary for the alien's knowledge to be proprietary or unique, but be sufficiently different from that generally found in the industry. Counsel asserts, therefore, that the beneficiary's literacy in Arabic and its various dialects satisfies this criteria and therefore demonstrates the beneficiary's qualifications for the classification sought.

Counsel also resubmits the documentation previously submitted in response to the request for evidence.

On review, the record does not contain sufficient evidence to establish that the beneficiary possesses specialized knowledge or that the intended position in the United States requires 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 has failed to provide a detailed description of the services to be performed sufficient to establish specialized knowledge. The petitioner claims that the beneficiary is an information technology specialist and that he will be responsible for establishing the technical and support procedure for the petitioner. In response to the request for evidence and again on appeal, the petitioner contends that the beneficiary's literacy in Arabic, as well as his maintenance of the "mother board," render him an intracompany transferee with specialized knowledge. However, in addition to the minimal information provided with regard to his duties, the petitioner has not sufficiently documented how the beneficiary's performance of the proposed job duties distinguishes his knowledge as specialized. The petitioner repeatedly states throughout the record that the beneficiary's literacy in Arabic is an integral part of the petitioner's business plan and therefore would cause the petitioner significant economic inconvenience if the petitioner was deprived of his services. The petitioner, however, offers no explanation as to the educational or work qualifications necessary for an information technology specialist with the company. Instead, counsel relies upon the fact that the beneficiary has language skills in addition to computer skills to conclude that he possesses specialized knowledge. The lack of specificity pertaining to the beneficiary's work experience and training, particularly in comparison to others employed by the petitioner and in this industry, fails to distinguish the beneficiary's knowledge as specialized. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

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 *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’ 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 produce a specialized product, for example, IT services to Arabic-speaking customers, rather than an employee who has unusual duties, skills, or knowledge beyond that of a skilled worker.

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.*, “[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning.” 745 F. Supp. at 15. 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

¹ Although the cited precedents pre-date the current statutory definition of “specialized knowledge,” the AAO finds them instructive. *See Brazil Quality Stones v. Chertoff*, 531 F.3d 1063, 1070 n. 10 (9th Cir. 2008). 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 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.

knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner's workforce.

Here, the petitioner's only contention that the beneficiary's knowledge is more advanced than other information technology specialists is that he is literate in the Arabic language. Again, the petitioner has not provided any information pertaining to the other information technology professionals employed by the petitioner. Nor did the petitioner distinguish the beneficiary's knowledge, work experience, or training from the other employees. The lack of evidence in the record makes it impossible to classify the beneficiary's knowledge of the petitioner's information technology as advanced or special. 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 Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). While it may be correct to say that the beneficiary is a highly skilled and productive employee, this fact alone is not enough to bring the beneficiary to the level of "key personnel."

Moreover, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). 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." *Matter of Penner, 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 all employees with specialized knowledge, but rather to "key personnel" and "executives.")

The petitioner also asserted that the beneficiary's knowledge is specialized because it is "an integral part of the petitioner's business plan to serve the needs of the growing segment of the U.S. market that speaks Arabic and speaks little or no English." The petitioner argues that it is not practical to expect computer specialists to be literate in the Arabic language, and asserts that to do so would cause significant economic inconvenience to the petitioner. While the beneficiary's skills and knowledge may contribute to the success of the petitioning organization, this factor, by itself, does not constitute the possession of specialized knowledge. The AAO notes that, with regard to counsel's reliance on the 2002 CIS memorandum, the memorandum was intended solely as a guide for employees and will not supersede the plain language of the statute or regulations. Although the memorandum may be useful as a statement of policy and as an aid in interpreting the law, it was intended to serve as guidance and merely reflects the writer's analysis of the issue. 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.

In the present matter, the petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge in the field of information technology is more advanced than the knowledge possessed by others employed by the petitioner, or in the industry. It is clear that the petitioner considers the beneficiary to be an important employee of the organization. The AAO, likewise, does not dispute the fact that the beneficiary's knowledge has allowed him to competently perform his job in the foreign entity. However, the successful completion of one's job duties does not distinguish the beneficiary as "key personnel;" nor does it establish employment in a specialized knowledge capacity.

Nor does the record establish that the proposed U.S. position requires specialized knowledge. Counsel contends that the petitioner's desire to target the U.S. market where people speak Arabic and little or no English necessitates the services of the beneficiary, since he possesses such language skills. There is no documentation, other than counsel's assertion, that an information technology specialist coming to work for the U.S. entity must possess advanced, "specialized knowledge" as defined in the regulations and the Act. Again, the assertions of counsel do not constitute evidence. *Matter of Obaighena, supra*; *Matter of Ramirez-Sanchez, supra*.

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. v. Attorney General, *supra* 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.

The second issue in this matter is whether the petitioner is a qualifying organization as defined by 8 C.F.R. § 214.2(l)(1)(ii)(G). Specifically, the regulation defines the term "qualifying organization" as a United States or foreign firm, corporation, or other legal entity which:

(1) 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;

(2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate, or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and

(3) Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

The director concluded that the petitioner had not demonstrated that it maintained a qualifying relationship with a foreign entity, or that it was doing business in the United States as required by the regulations.

The first issue the AAO will address is whether the U.S. entity is or will be doing business. The regulation at 8 C.F.R. § 214.2(l)(1)(ii)(H) defines the term “doing business” as “the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad.”

In this matter, the petitioner claims that it is a multi-level trading company specializing in computers for business and consumers, which currently employs three persons. Despite the director’s request for documentation demonstrating that the company is doing business, the petitioner failed to supplement the record with such documentation.

On review of the evidence submitted, the AAO concurs with the director’s finding that the petitioner failed to demonstrate that it had been and will be doing business, and thus, by definition, the petitioner is not a qualifying organization for purposes of this analysis. First, in the course of examining whether the petitioning company has been doing business as a trading company, it is reasonable to expect copies of documents that are required in the daily operation of the enterprise, such as invoices and shipping receipts. Any company that is doing business through the regular, systematic, and continuous provision of goods or services may reasonably be expected to submit copies of these invoices evidencing the amount of sales actually done.

There is no documentation existing in the record to establish that the petitioner has been engaging in the trade of computer services. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). In addition, without documentary evidence to support his claims, the assertions of counsel will not satisfy the petitioner's burden of proof. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

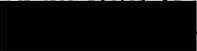
In the present matter, the evidence submitted is insufficient to establish that the petitioner has been doing business as defined by the regulations. Therefore, the petitioner cannot be deemed a qualifying organization under 8 C.F.R. § 214.2(l)(3)(i).

The next issue in this matter is whether the petitioner has established that it maintains a qualifying relationship with the foreign entity.

The regulation at 8 C.F.R. § 214.2(l)(1)(ii) provides:

- (I) "Parent" means a firm, corporation, or other legal entity which has subsidiaries.
- (J) "Branch" means an operating division or office of the same organization housed in a different location.
- (K) "Subsidiary" means a firm, corporation, or other legal entity 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.
- (L) "Affiliate" means
 - (1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or
 - (2) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity, or
 - (3) In the case of a partnership that is organized in the United States to provide accounting services along with managerial and/or consulting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

In this case, the petitioner claims that the U.S. entity is the subsidiary of Computers Company. In the letter of support dated September 26, 2006, the petitioner claims that the U.S. entity is owned by



The director requested evidence of this relationship in the form of ownership documents, stock certificates, etc. in the request for evidence issued on December 13, 2006. Although the petitioner submitted an abundance of documents, no such evidence of the ownership of the petitioner was submitted.

Upon review of the response, the director concluded that the petitioner had failed to meet this requirement and denied the petition. Counsel for the petitioner fails to address this issue on appeal.

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 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*, 19 I&N Dec. at 595.

Upon review of the record of proceeding, the petitioner has not established that it has the required qualifying relationship with the foreign entity.

Although counsel claims in the letter of support that [REDACTED] owns the petitioner, he also claims that the foreign entity, [REDACTED], owns the petitioner. Therefore, to find a qualifying relationship, the record should contain either share certificates or other documentation demonstrating that the foreign entity owns the petitioner, or in the alternative, documentation that [REDACTED] i, as an individual, owns a majority interest in both [REDACTED] Computers Company and the petitioner. No documentation pertaining to either of these relationships has been submitted. 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)).

Upon review of the record of proceeding, the AAO concurs with the director's finding that the petitioner has failed to demonstrate that a qualifying relationship exists between the U.S. entity and foreign entity.

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. Accordingly, the director's decision will be affirmed and the petition will be denied.

ORDER: The appeal is dismissed.