U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: EAC 02 149 52467 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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, Director
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. The petitioner submitted a motion to reopen the matter on August 1, 2002. The director granted the motion but ultimately denied the petition on December 17, 2002. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a new U.S. office organized in the State of New York in February 2002. It claims to engage in international trade. It seeks to temporarily employ the beneficiary as its president. Accordingly, the petitioner endeavors to classify the beneficiary as a 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 claims that it is a wholly owned subsidiary of [redacted] located in Budapest, Hungary.

The director denied the petition and the subsequent motion concluding: (1) that the petitioner had not established that it had sufficient physical premises to open a new office; or, (2) that the petitioner would support an executive or managerial position within one year of approval of the petition.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, filed on January 17, 2003, the petitioner indicates it is attaching a separate brief or evidence. The attachment to the I-290B consists of a letter dated January 17, 2003 with attached photographs. The letter, other than the date, the addressee, and the one-sentence opening paragraph is an exact replica of the letter submitted to the director on the petitioner's motion to reopen. The petitioner addresses only the issue of its physical premises and does not address the issue of the beneficiary's proposed managerial or executive capacity.

The petitioner does not identify specifically an erroneous conclusion of law or a statement of fact in the director's decision. The director's decision on the petitioner's motion is not addressed at all. Inasmuch as the petitioner has not identified an erroneous conclusion of law or statement of fact as the basis of the appeal, the regulations mandate the summary dismissal of the appeal.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.