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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

D2

FILE: EAC 08 186 51883

Office: VERMONT SERVICE CENTER

Date: **APR 05 2010**

IN RE:

Petitioner:

Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew

Chief, Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the service center director and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

The petitioner describes itself as a software design and development company that seeks to employ the beneficiary as a software engineer. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition because the petitioner failed to submit an itinerary of the beneficiary's employment and because the petitioner failed to establish that the proffered position is a specialty occupation. On appeal, counsel for the petitioner submits a brief and supporting documentation.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that, subsequent to the filing of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on the beneficiary's behalf. USCIS records further indicate that this other employer's petition was approved, which granted the beneficiary H-1B status from September 11, 2009 to July 31, 2012. Because the beneficiary in the instant petition has been approved for employment with another petitioner, further pursuit of the matter at hand is moot.

**ORDER:** The appeal is dismissed. The petition is denied.