U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

DATE: FEB 28 2013 Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting 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 petition seeking to classify the beneficiary as an L-1B 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, a Florida corporation, is self-described as a company engaged in the sale of customized promotional advertising products. The petitioner claims to be a subsidiary of [redacted] in Venezuela ("parent company.") The petitioner seeks to employ the beneficiary as the president and chief executive officer of its new office in the United States for a period of one year.

The director denied the petition, concluding that the petitioner failed to establish the beneficiary possesses specialized knowledge or that he will be employed in a position requiring specialized knowledge.

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 contends the director applied an improper standard in determining whether the beneficiary possesses specialized knowledge. Counsel asserts that the petitioner has submitted sufficient evidence to establish that the beneficiary possesses specialized knowledge. Counsel submits a brief. The petitioner has not submitted any additional documentary evidence in support of the appeal.

I. The Law

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 the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the U.S. temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate.

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

> 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.

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.

II. The Issue on Appeal

The sole issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge and will be employed in the United States in a specialized knowledge capacity.

The petitioner indicates that it has four employees and currently no gross annual income. The petitioner stated the beneficiary will be working as the president and chief executive officer of a new office in the United States for a period of one year.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on November 13, 2009. In a support letter dated October 29, 2009, the petitioner's described the beneficiary's proposed responsibilities and duties as follows:

> The parent company has determined that it would be advantageous to open a U.S. subsidiary in South Florida and to transfer [the beneficiary] to manage

> and direct the new office . . . . [The beneficiary] has been employed by the parent company since 2001 without interruption . . . as manager of the company and as such, was responsible for negotiating prices with customers, placing orders with our suppliers, and ensuring shipping and delivery. In addition, [the beneficiary] was in charge of design for customers that required logos or other design features. [The beneficiary] has specialized knowledge of our company's product lines, procedures and business operations, as well as specialized knowledge of our company products and our suppliers and their application in international markets. In addition [the beneficiary] is familiar in the Venezuelan import laws and regulations which is essential to our business.
>
> In the U.S. [the beneficiary] will use his specialized knowledge to grow our business internationally while ensuring a more efficient and cost effective operation. While his duties will parallel those of his prior employment in Venezuela, he will have greater responsibility as President and C.E.O. of our U.S. operation.
>
> [The beneficiary] is qualified to fill this position based upon his experience, education, and the specialized knowledge he possesses of our products, procedures and business operations. [The beneficiary] will be employed initially for a period of one year, at a salary of $60,000 per year plus bonus and some expenses.[1]

The petition indicates the beneficiary studied business administration at the university level but did not obtain a degree. The petitioner did not submit a copy of the beneficiary's resume.

The petitioner submitted copies of photographs of the parent company's worksite and staff, the parent company's articles of incorporation and invoices for goods ordered by the parent company from suppliers in China.[2]

The petitioner also submitted its articles of incorporation, a signed lease agreement between the petitioner and the [redacted] for premises located at [redacted] in Doral, Florida, the petitioner's business license and the petitioner's bank account statements reflecting the accounts' opening balances.[3]

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[1]The petitioner's statement of the beneficiary's compensation in the support letter is inconsistent with its statement in the petition, where the petitioner indicates the beneficiary will be paid an annual wage of $52,000 per year plus bonus and some expenses.

[2]The petitioner further submitted information about its parent company from company literature, financial documents concerning the parent company, and invoices issued by the parent company for goods ordered. However, because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

[3]The petitioner's articles of incorporation list the beneficiary and his parents as the company's three directors and the beneficiary's sister as the company's registered agent. The parent company's articles of incorporation list the beneficiary as the company's manager and the beneficiary's mother as the company's president.

The director issued a request for additional evidence (RFE) on November 20, 2009, in which he requested evidence that the beneficiary has specialized knowledge and evidence of the proposed specialized knowledge position in the United States. More particularly, the director instructed the petitioner to provide, *inter alia,* the following: (1) the number of persons holding the same or similar position as the beneficiary at the U.S. location where the beneficiary will be employed; (2) an explanation of how the duties the beneficiary performed abroad and those he will perform in the United States are different from those of other workers employed by the petitioner or other U.S. employers in this type of position, supported by documentary evidence; (3) a more detailed explanation of exactly what is the equipment, system, product, technique or service of which the beneficiary has specialized knowledge, and whether it is used or produced by other employers in the United States and abroad; (4) an explanation of how the beneficiary's training or experience is uncommon, noteworthy, or distinguished by some unusual quality and not generally known by practitioners in the beneficiary's field and in comparison to those employed by the petitioner in the beneficiary's field; and (5) an explanation of the impact upon the petitioner's business if it is unable to obtain the beneficiary's services.

In response to RFE the petitioner submitted a business plan prepared by the parent company for the U.S. entity. The business plan states the petitioning company was founded by the beneficiary who "has over eight years' experience in the industry, most recently managing, operating and overseeing all aspects of the business in the Venezuelan headquarters." It also describes the beneficiary as "a savvy marketer and accomplished sales professional. [The beneficiary] has a proven track record for developing new business." The business plan also describes in general terms the business to be conducted by the petitioner in offering "full service promotional products solutions by providing import/export services to its Venezuelan clients, distribution services and graphic design services" stated to include the following:

- Supplier/buyer identification
- Purchasing process contracting and consulting
- Shipping setup
- Delivery
- Writing instruments, drink ware, and other items imprinted with company logos
- Premiums, incentives, advertising specialties, business gifts, awards and commemoratives
- Consulting
- Graphic Design

The business plan states the petitioner will be "importing advertising/promotional products from manufacturers in China which the company will export to customers located in Venezuela." The business plan further states the petitioner, "will also import and distribute promotional/advertising specialties . . . for its local Miami clients" and "will also provide graphic design." It states the beneficiary, as chief executive officer and president, will be handling the marketing, sales, data management and internal operations. The business plan lists three additional employees in the petitioning company's first year of operation, including an operations manager, administrative assistant and accounting clerk.

Also in response to the RFE, the petitioner submitted a statement from the beneficiary, as additional evidence that he has specialized knowledge and evidence of the proposed specialized knowledge position in the United States. The beneficiary states:

> My contribution to this project involves my knowledge of our business operations abroad as well as my skills in design and marketing. My advanced level of knowledge of our products, and procedures, and my management skills made me a key employee which fostered our company's competitiveness in Venezuela and will no doubt allow our new office to have a positive initial phase in the U.S. I believe I am not only the most qualified person to make this new venture in the U.S. but that there would not be anyone else qualified to combine our foreign operations with this new business venture.

The beneficiary further describes his skills and responsibilities working for the parent company since 2001 as follows:

- During the beneficiary's first year of employment the beneficiary assisted his father (described as the president and founder of the parent company) while being taught the business;
- Met with existing and new clients
- Negotiated product price and ordered the products
- Arranged for shipping and delivery to the client, utilizing the beneficiary's knowledge of international shipping procedures and pertinent laws and regulations;
- Assisted the president in all financial operations, including payment to manufacturers, and oversight of all company expenses, budgeting and payroll;
- Carried out graphic design for clients requiring new logos and various kinds of design; and,
- Had primary responsibility for marketing for parent company in Venezuela.

Also in response to the RFE, counsel asserted that no other employees at the U.S. entity will perform the proposed duties stated in the petition, and no other employees with the beneficiary's unique skills are available in the local job market. Although the business plan identified three additional employees of the U.S. entity, the petitioner has not submitted documentary evidence of the employees' duties and responsibilities, as requested by the director, to determine how the duties the beneficiary performed abroad and those he will perform in the United States are different from those of other workers employed by the petitioner or other U.S. employers in this type of position. 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972). Counsel asserts "there are no plans to train other workers to perform the beneficiary's job since this is a new office. The company would train other workers between the second and third year of operation. . . If the U.S. subsidiary is unable to obtain the beneficiary's services, the U.S. subsidiary would most likely have to close. . ." Counsel's statement is inconsistent with the information contained in the business plan which anticipates, in the first year of operation of the U.S. company, the employment of three persons in addition to the beneficiary, to include an operations manager, an administrative assistant and

an accounting clerk. Without documentary evidence to support counsel's claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported 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).

The director ultimately denied the petition, concluding that the petitioner failed to establish that the beneficiary would be employed in a specialized knowledge position or that the beneficiary possesses specialized knowledge. In denying the petition, the director found the petitioner submitted insufficient evidence to establish that the job the beneficiary performed with the foreign company and to be performed at the worksite involves a specialized or advanced level of knowledge in the sale of customized promotional advertising products or a related occupation. The director found that the beneficiary's stated duties from his employment abroad and the described duties of the proffered position in the United States were similar to the duties of similarly situated purchasing and shipping agents. The director found the record was not persuasive that the beneficiary possesses specialized knowledge or that the U.S. position requires a worker who possesses specialized knowledge.

The director further found that while the evidence establishes that the beneficiary worked for the parent company for over seven years, "there is no evidence to show that this period of employment has resulted in specialized knowledge of something unique to the petitioner which other similarly trained persons could not have gained from working in the industry in general," or that another similarly situated employee "from outside the petitioning company could not quickly acquire the knowledge needed to assume the United States position."

The director emphasized that, although the petitioner asserts that the beneficiary possesses knowledge of the petitioner's proprietary processes, methodologies, tools and/or products, "the record is not persuasive that the beneficiary utilizes proprietary systems, tools, methodologies or procedures that differ greatly from those used by similarly employed workers." The director further emphasized that while individual companies will develop processes tailored to their own needs, "insider knowledge of a company's operations does not automatically constitute special or advanced knowledge." The director found "the petitioner has not demonstrated that knowledge of the particular methods, tools and procedures required for the beneficiary's current position or for the proffered position requires significant training time." such that similarly situated employed persons in the field could not readily acquire such company-specific knowledge."

On appeal, counsel asserts that the petitioner has explained that the beneficiary possesses specialized knowledge, in that he possesses knowledge which can be gained only through prior experience with the parent organization, and possesses knowledge of a product or process which cannot be easily transferred or taught to another individual. Counsel asserts:

> . . . it would be unrealistic, if not impossible, to find a qualified individual who is familiar with the specific business practices in Venezuelan customs and shipping requirements, product manufacturers in China and the U.S., Latin American markets in general, the Venezuelan and Latin American business community in

> South Florida, graphic design, negotiations of contracts, company management and more, particular to this business.

Counsel additionally asserts:

> In order for the Parent Company to train another individual for the Beneficiary's job, it would have needed to find someone who has managerial skills, negotiating ability, personnel management skills, knowledge of graphic design, knowledge of Venezuelan business regulations and practices, knowledge of Foreign suppliers, and past experience in this specific business. This would be improbable, if not unlikely.

Counsel further asserts, quoting from his response to the director's request for evidence:

> The Beneficiary "has been utilized abroad in a capacity involving significant assignments which have enhanced the employer's productivity, competitiveness, image or financial position . . ."

Counsel asserts that the beneficiary's work for the parent company enhanced the company's productivity such that, "No other company in Venezuela can match that record." Counsel further asserts, "Clearly not everyone can operate a start-up company of this sort and integrate its operations with the parent company abroad while expanding its operations in the U.S."

The petitioner has not submitted any additional documentary evidence on appeal.

Upon review, and for the reasons discussed herein, the petitioner has not established that the beneficiary possesses specialized knowledge or that he has been or would be employed in a capacity requiring specialized knowledge.

III. Analysis

A. Specialized Knowledge

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge or that he would be employed in the United States in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.* The director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

In order to establish eligibility, the petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." *See also* 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

Once the petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others in the petitioning company and/or against others holding comparable positions in the industry. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is advanced or special, and that the beneficiary's position requires such knowledge.

In the present case, the petitioner's claims are based on the first and second prongs of the statutory definition, asserting that the beneficiary has a special knowledge of the company's products and their application in international markets and an advanced level of knowledge of the company's processes and procedures.

Although the petitioner repeatedly asserts that the beneficiary has been and will be employed in a "specialized knowledge" capacity, the petitioner has not adequately articulated any basis to support this claim. The petitioner has provided a general description of the beneficiary's past and present duties, but the description does not mention the application of any special or advanced body of knowledge specific to the petitioning organization which would distinguish the beneficiary's role from that of other similarly-experienced workers employed by the petitioner or in the field at large. The evidence of record indicates that the beneficiary buys and sells customized promotional advertising products. A review of the beneficiary's statement of his duties and responsibilities does not reflect that he utilizes any specialized tools or specific training acquired after he was hired by the foreign employer. It is evident that other similarly-experienced workers in the field possess a similar skill set.

The petitioner claims that the beneficiary's specialized knowledge was derived from his experience since 2001 at the foreign entity, with duties and responsibilities similar to those which he will be assigned in the United States.

The petitioner does not explain how the beneficiary's specialized knowledge derives from any company-specific methods or procedures for the purchase and sales of customized promotional advertising products, other than state the beneficiary has specialized or advanced knowledge of the parent company's specific processes. Therefore, the petitioner has offered little more than conclusory assertions in support of its claim that the beneficiary possesses specialized knowledge. As stated above, going on record without 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'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724, F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905, F.2d 41 (2d. Cir. 1990). The petitioner failed to articulate, with specificity, the nature of the claimed specialized knowledge. While the beneficiary's statement confirms that he has worked for the parent company since 2001, it does not establish how the knowledge he used or acquired on such work rises to the level of specialized or advanced knowledge, or why such duties could not have been performed by similarly experienced workers in the field. An expansive interpretation of specialized knowledge in which any experienced employee would qualify as having special or advanced knowledge would be untenable, since it would allow a petitioner to transfer any experienced employee to the United States in L-1B classification. The term "special" or "advanced" must mean more than experienced or skilled.

On appeal, counsel asserts that the beneficiary's familiarity with the parent company's products and systems should be considered knowledge that is specific to, or proprietary to, the parent company and therefore "specialized." All employees can be said to possess unique skills or experience to some degree. The beneficiary's familiarity with the petitioner's projects, systems, or procedures, while valuable to the petitioner, cannot form the basis of a determination that he possesses specialized knowledge.

On appeal counsel asserts that it can be assumed that the beneficiary possesses specialized knowledge because training a U.S. worker to assume the beneficiary's duties "in the first year would create a significant interruption of business by shifting the Beneficiary's focus from operating to training." Counsel does not state what amount or what type of training would be required within the petitioner's organization. Nor has the foreign entity specified the amount or type of training its employees receive in the company's tools and procedures, therefore it cannot be concluded that its processes are particularly complex or different compared to those utilized by other companies in the industry, or that it would take a significant amount of time to train an experienced worker who had no prior experience with the petitioner's business in the sale of customized promotional advertising products.

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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)). Based on the evidence submitted, the petitioner's internal processes and tools, while effective and valuable to the petitioner, can be readily learned on-the-job by similarly experienced workers in the field. For this reason, the

petitioner has not established that knowledge of its processes and procedures alone constitutes specialized knowledge.

The AAO does not dispute that the beneficiary is a skilled employee who would be a valuable asset to the petitioner. However, as explained above, the record does not distinguish the beneficiary's knowledge as more advanced than the knowledge possessed by other workers employed by the petitioning organization or by workers who are similarly employed elsewhere. The beneficiary's duties and technical skills demonstrate that he possesses knowledge that is common among professionals in the field of selling customized promotional advertising products. Furthermore, it is not clear that the performance of the beneficiary's duties would require more than basic proficiency with the company's internal processes and methodologies. The petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge of the company's processes is more advanced than the knowledge possessed by others employed by the petitioner, or that the processes used by the petitioner are substantially different from those used by other companies in the field of selling customized promotional advertising products.

For the reasons discussed above, the evidence submitted fails to establish that the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity with the petitioner in the United States. *See* Section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed on this basis.

B. Qualifying Relationship

Finally, although not addressed by the director, the remaining issue in this proceeding is whether the petitioner has established that a qualifying relationship exists between the petitioning entity and a foreign entity pursuant to 8 C.F.R. § 214.2(l)(1)(ii)(G). To establish a "qualifying relationship" under the Act and the regulations, the petitioner must show that the beneficiary's foreign employer and the proposed U.S. employer are the same employer (i.e. one entity with "branch" offices), or related as a "parent and subsidiary" or as "affiliates." *See generally* section 101(a)(15)(L) of the Act; 8 C.F.R. § 214.2(l).

The petitioner claims to be a subsidiary of [redacted] At the time of filing, the petitioning U.S. company submitted its articles of incorporation, indicating the total number of authorized shares to be 1,000. The petitioner also submitted stock certificate number one, indicating that 550 of the total 1,000 authorized shares of the U.S. company had been issued to the claimed parent company.

However, on August 8, 2012, the petitioning U.S. company filed with the Florida Department of State, Division of Corporations, articles of amendment to its articles of incorporation. The articles of amendment indicate that on July 30, 2012, the shareholders of the U.S. company amended the percentage ownership of the stock of the U.S. entity as follows:

[redacted]

As a result of this amendment, [redacted] presently has a majority percentage ownership of the stock of the U.S. company.

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.

Based on the foregoing, the petitioner has not demonstrated that a qualifying relationship still exists with a foreign entity, and has not persuasively demonstrated that the foreign entity will continue doing business during the alien's stay in the United States. On this additional basis the appeal must be dismissed and the petition denied.

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 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004)(noting that the AAO conducts appellate review on a *de novo* basis). 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. v. United States*, 229 F. Supp. 2d at 1043.

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision.

IV. Conclusion

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 the petitioner has not met that burden.

ORDER: The appeal is dismissed.