



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 7144585

Date: MAR. 8, 2021

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner, an optical and ethernet transport solutions developer, seeks to temporarily employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the California Service Center denied the petition concluding the Petitioner violated the general prohibition on filing multiple H-1B petitions for the same Beneficiary under 8 C.F.R. § 214.2(h)(2)(i)(G), and dismissed a subsequent motion to reopen and reconsider. The matter is now before us on appeal.

Upon *de novo* review, we conclude that the Petitioner provided a reasonable explanation regarding the submission of the second petition. Specifically, the Petitioner contends that the submission of the second petition was accidental due to a clerical mistake, and provides evidence explaining the nature of the error. We further note that the second petition was not accompanied by the required fees and thereby was rejected by U.S. Citizenship and Immigration Services (USCIS) as improperly filed. In sum, the Petitioner provided sufficient evidence to establish by a preponderance of the evidence that it did not violate multiple filings prohibition under 8 C.F.R. § 214.2(h)(2)(i)(G). The Petitioner has provided evidence demonstrating that the submission of the second petition was not intentional. Further, USCIS records demonstrate that the second petition was rejected and did not retain a filing date. Consequently, we will withdraw the Director's decision and remand the petition for further review of the record on its merits and issuance of a new decision.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision.