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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



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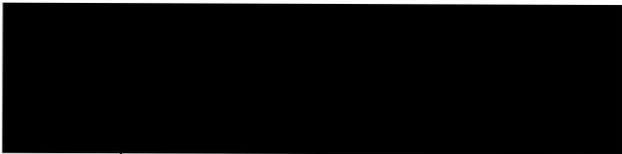
FILE: WAC 07 148 53070 Office: CALIFORNIA SERVICE CENTER Date: SEP 09 2009

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).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center. 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 an information technology services business¹ that seeks to employ the beneficiary as a programmer/analyst. 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 establish that: (1) it meets the regulatory definition of an intending United States employer 8 C.F.R. § 214.2(h)(4)(ii); (2) it meets the definition of “agent” at 8 C.F.R. § 214.2(h)(2)(i)(F); (3) it has complied with the conditions of the labor condition application; and (4) the beneficiary’s work qualifies as a specialty occupation.

On appeal, the petitioner states that the director’s decision was incorrect.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that subsequent to the filing of the instant petition, another petitioner filed a Form I-129 petition seeking nonimmigrant H-1B classification on the beneficiary’s behalf. USCIS records further indicate that the petition was approved for the beneficiary’s employment from October 1, 2008 to September 22, 2011. 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.

¹ According to the Illinois Corporation File Detail Report, the petitioner’s status is “MERGE/CONSOLIDATED.”