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



D2

Date: **APR 03 2012**

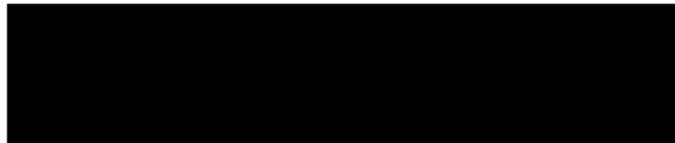
Office: VERMONT SERVICE CENTER

FILE: 

IN RE:

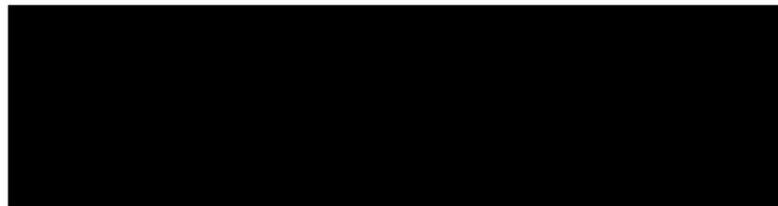
Petitioner:

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:

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew

Chief, Administrative Appeals Office

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

In the Form I-129 visa petition, the petitioner described itself as a “software development & consulting services” firm with more than 90 employees. To continue to employ the beneficiary in what it designates as a “programmer analyst” position, the petitioner endeavors to classify him 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 on April 23, 2009, because he determined that the petitioner failed to establish that the proffered position qualifies as a specialty occupation. On appeal, counsel contended that the petitioner submitted more than sufficient evidence that the duties of the proffered position qualify it as a specialty occupation.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on August 21, 2009, a date subsequent to the denial of the instant petition, the petitioner filed a new Form I-129 petition on behalf of the beneficiary. USCIS records further indicate that this second petition was approved on August 31, 2009, which granted the beneficiary H-1B status from August 31, 2009 until August 23, 2012.

Because the beneficiary in the instant petition has been approved for H-1B employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand is moot.

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