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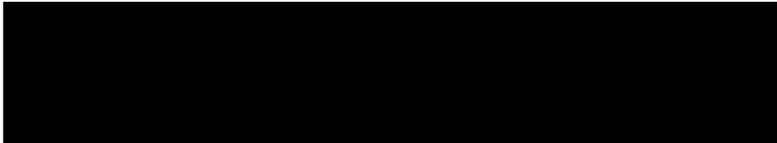
File: WAC 07 239 53421 Office: CALIFORNIA SERVICE CENTER Date: APR 03 2008

IN RE: Petitioner:
Beneficiary:



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

IN BEHALF OF BENEFICIARY:



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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California 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 employ the beneficiary in the position of technical account manager as an L-1B nonimmigrant intracompany transferee with specialized knowledge 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 is an Idaho corporation, which claims to be a software and hardware solutions provider. The petitioner seeks to employ the beneficiary for a period of three years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary has been or will be employed in a capacity involving specialized knowledge or that the beneficiary possesses specialized knowledge.

On appeal, counsel for the petitioner asserts that the petitioner has satisfied the criteria for establishing that the beneficiary has been and will be employed in a specialized knowledge capacity.

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 three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) further 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.

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

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 primary issue in this proceeding is whether the petitioner has established that the beneficiary has been or will be employed in a capacity involving specialized knowledge. 8 C.F.R. § 214.2(l)(3)(ii).

The petitioner described the beneficiary's duties and purported specialized knowledge in a letter dated August 6, 2007 as follows:

As Technical Account Manager, [the beneficiary] will be responsible for identifying and evaluating customers['] needs and providing technical marketing with regard to [the petitioner's] specialized AutoSoft products. He will meet with potential customers and analyze their current systems to determine the ways in which [the petitioner's] AutoSoft products could improve their profitability and efficiency. He will work with customers to evaluate whether [the petitioner's] products and services are a good fit for the customer. If our products and services are a good fit for the customer, [the beneficiary] will be responsible for providing customers with detailed information on the ways our products would integrate with their business. He will visit customer's dealerships and do systematic walk-throughs to gather the information we need to allow us to prepare proposals for hardware and software solutions, as well as installation criteria. He will prepare and give presentations to customers demonstrating our products and services and will present the various options available to customers. He will develop and present proposals to customers for the products and services we provide. He will be responsible for closing sales and then overseeing and coordinating the [the petitioner's] technical team that will perform product installation. He will provide ongoing technical management to ensure customer satisfaction.

To perform these duties, the Technical Account Manager must have specialized knowledge of the [petitioner's] AutoSoft product line and the services [the petitioner] offers. The Technical Account Manager must be able to describe and present to customers all types of product & service packages offer by [the petitioner]. He must fully understand how our technology solutions will increase the productivity and efficiency of our customers' operations and be able to explain and demonstrate this to customers. In order to fulfill this role, the Technical Account Manager must be very knowledgeable about the technical features of our products and the way they operate when implemented within a business. He must also be very

knowledgeable about the equipment and systems that are needed to implement our solutions for customers, as well as the services we provide with regard to system development, implementation and support. Further, the Technical Account Manager must have advanced knowledge of our sales management systems and be able to oversee the sales process to ensure customer satisfaction. He must have an advanced level of understanding of the product and service packages we offer, as well as the types of contracts we offer and our pricing policies.

As set forth in the enclosed documentation, [the petitioner's] AutoSoft Dealership Management Systems (DMS) are leading-edge business enterprise IT solutions for automotive retailers. The software being sold is a very large, expensive and complex comprehensive DMS. It handles all aspects of a dealership operation and each package must be highly customized for the purchaser. [The beneficiary] has had almost four years of experience with this complex software package. He has worked with dozens of dealers in the past and knows both the automotive dealership business and the technical capacities, options, specifications and limitations of the company's product, the AutoSoft Dealership Management Systems. [The beneficiary] can evaluate the technical needs of potential customers, offer realistic assessments of the right technical options for customization, and explain the actual operation of the technology of very specific real world applications. Such an advanced state of knowledge of the product and [the petitioner's] services provides the competitive advantage for [the petitioner] which would be impossible to replace with an individual without such specialized knowledge of the company's product and service.

On August 16, 2007, the director requested additional evidence. The director requested, *inter alia*, evidence establishing that the beneficiary's knowledge, experience, and training is different, uncommon, noteworthy, or distinguished by some unusual quality and is not generally known by similarly employed persons.

In response, the petitioner submitted a letter dated September 10, 2007, in which the petitioner describes the beneficiary's acquisition of his purported specialized knowledge as follows:

It would take several years of training and working in the field with our products, services and customers for a new employee to develop a level of knowledge and judgment approaching the knowledge that [the beneficiary] currently possesses.

* * *

In addition to [his] very extensive experience in the field, [the beneficiary] has attended multiple automotive conventions and seminars and has completed extensive product training and research through AutoSoft Corporate. Further, he continues to update his knowledge through working closely with our product development staff, reviewing internet training material provided by AutoSoft Corporate, and constantly staying on top of the product enhancements that we are continually making.

On September 12, 2007, the director denied the petition. The director concluded that the petitioner failed to

establish that the beneficiary has been or will be employed in a capacity involving specialized knowledge or that the beneficiary possesses specialized knowledge.

On appeal, counsel for the petitioner asserts that the petitioner has satisfied the criteria for establishing that the beneficiary has been and will be employed in a specialized knowledge capacity. Specifically, counsel argues that the director's reasoning in denying the petition was contrary to law because knowledge need not be "proprietary" in order to be "specialized." Counsel also submitted on appeal a letter from AutoSoft Canada Inc. claiming that the beneficiary's proposed job duties requires "an advanced level of highly technical knowledge of the AutoSoft product line" and that "[i]t would take several years of training and working in the field for the company for a new employee to develop the necessary level of product knowledge."

Upon review, the petitioner's assertions are not persuasive in demonstrating that the beneficiary has been or will be employed in a position involving specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D) or that the beneficiary possesses specialized knowledge.

In examining the specialized knowledge capacity of the beneficiary, the AAO will look to the petitioner's description of the job duties. *See* 8.C.F.R. § 214.2(l)(3). The petitioner must submit a detailed job description of the services performed sufficient to establish specialized knowledge. In this matter, the petitioner fails to establish that this position requires an employee with specialized knowledge or that the beneficiary has been employed in a specialized knowledge capacity abroad.

Although the petitioner repeatedly asserts that the beneficiary's position requires "specialized knowledge" and that the beneficiary had been employed abroad in a "specialized knowledge" capacity, the petitioner has not adequately articulated any basis to support this claim. The petitioner has failed to identify any specialized or advanced body of knowledge which would distinguish the beneficiary's role from that of other similarly software workers, both with or without specific knowledge of Autosoft products, employed by the petitioning organization or in the industry at large. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 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 asserts that the beneficiary possesses specialized knowledge of the AutoSoft product line and associated services. This allegedly requires knowledge of "technical features" of the products, the operation of the product upon implementation, the systems, services, and equipment used in implementation, sales management, and the petitioner's product packages, contracts, and pricing policies. The petitioner describes the product as being a "very large, expensive and complex" system. However, despite these assertions, the record does not establish how, exactly, the AutoSoft product line differs so significantly from other large, expensive, and complex software products that a similarly employed "technical account manager" could not perform the duties of the position. The petitioner never establishes the material difference between the AutoSoft products and their implementation and other software products, which requires noteworthy or uncommon knowledge not possessed generally by similarly employed software professionals and "technical

account managers."

Overall, the record does not establish that the beneficiary's knowledge is substantially different from the knowledge possessed by software workers generally throughout the industry or by other employees of the petitioning organization, including those employed by other dealers of AutoSoft. The fact that few other employees possess very specific knowledge of certain aspects of a particular software product does not alone establish that a beneficiary's knowledge is indeed uncommon or noteworthy. All employees can be said to possess unique and unparalleled skill sets to some degree; however, a unique skill set that can be imparted to another similarly experienced and educated employee without significant economic inconvenience is not "specialized knowledge." Moreover, any proprietary or unique qualities of the petitioner's product do not establish that any knowledge of this software is "specialized." Rather, the petitioner must establish that qualities of the unique or proprietary product require this employee to have knowledge beyond what is common in the industry. This has not been established in this matter. The fact that other workers may not have very specific knowledge regarding the petitioner's product or its implementation is not relevant to these proceedings if this knowledge gap could be closed by the petitioner by simply revealing the information to a newly hired, similar employee.

Furthermore, while the petitioner asserts that "[i]t would take several years of training and working in the field with out products, s̄ervices and customers for a new employee to develop a level of knowledge and judgment approaching the knowledge that [the beneficiary] currently possesses," the petitioner failed to support this claim with any evidence other than vague references to the beneficiary's attendance of various conventions and corporate seminars. The expert letter submitted on appeal fails to provide any additional details addressing the purported training and experience. Once again, 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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190). The record is devoid of evidence establishing, exactly, what knowledge would be imparted during this vaguely described "training" or why the purported specialized knowledge would take this long to impart.

Finally, it is noted that the director appears to conclude in her decision that, because the AutoSoft products are not "unique or proprietary to the petitioner," the petitioner has failed to establish that knowledge of these products is "specialized." Counsel argues on appeal that a product need not be "proprietary" to a petitioner in order for knowledge of this product to be "specialized." See Memorandum from James A. Puleo, Acting Executive Associate Commissioner, Immigration and Naturalization Service, *Interpretation of Specialized Knowledge*, CO 214L-P (March 9, 1994). The AAO agrees with counsel that the petitioner was not obligated to establish that AutoSoft was proprietary in order to establish that the beneficiary's knowledge of AutoSoft products constitutes "specialized knowledge," and the director's decision will be withdrawn in part. However, as noted above, the petitioner nevertheless failed to establish that the beneficiary's knowledge of AutoSoft products constitutes specialized knowledge because the petitioner failed to establish that the beneficiary's knowledge is substantially different from the knowledge possessed by software workers generally throughout the industry, by other employees of the petitioning organization, or by employees of other AutoSoft dealers. Crucially, the petitioner never establishes the material difference between the AutoSoft products and their implementation and other software products, which requires noteworthy or uncommon knowledge not possessed generally by similarly employed software workers and "technical account managers." The fact that

the software is proprietary, or not, is generally irrelevant to the analysis, although the fact that the software product is widely used and implemented by various dealers throughout the United States and Canada certainly undermines any claim that knowledge of this product is uncommon, noteworthy, or distinguishable by some unusual quality.

The AAO does not dispute the possibility that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. However, it is appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)). As stated by the Commissioner in *Matter of Penner*, when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." 18 I&N Dec. at 52. Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily for his ability to carry out a key process or function which is important or essential to the business firm's operation.

Id. at 53.

It should be noted that the statutory definition of specialized knowledge requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F. Supp. 9, 15 (D.D.C. 1990). The Congressional record specifically states that the L-1 category was intended for "key personnel." See generally, H.R. REP. NO. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." Webster's II New College Dictionary 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of "crucial importance" or "key personnel" must rise above the level of the petitioner's average employee. Accordingly, based on the definition of "specialized knowledge" and the congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between the employee and the remainder of the petitioner's workforce. While it may be correct to say that the beneficiary in the instant case is a highly skilled and productive employee, this fact alone is not enough to bring the beneficiary to the level of "key personnel."

Moreover, in *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). The decision noted that the 1970 House Report, H.R. REP. NO. 91-851, stated that the number of admissions under the L-1 classification "will not be

large” and that “[t]he class of persons eligible for such nonimmigrant visas is narrowly drawn and will be carefully regulated by the Immigration and Naturalization Service.” *Id.* at 51. The decision further noted that the House Report was silent on the subject of specialized knowledge, but that during the course of the subcommittee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed “L” category. In response to the Chairman’s questions, various witnesses responded that they understood the legislation would allow “high-level people,” “experts,” individuals with “unique” skills, and that it would not include “lower categories” of workers or “skilled craft workers.” *Matter of Penner*, 18 I&N at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., Immigration Act of 1970: Hearings on H.R. 445, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded in *Matter of Penner* that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that the specialized knowledge worker classification was not intended for “all employees with any level of specialized knowledge.” *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, “[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees.” 18 I&N Dec. at 119. According to *Matter of Penner*, “[s]uch a conclusion would permit extremely large numbers of persons to qualify for the ‘L-1’ visa” rather than the “key personnel” that Congress specifically intended. 18 I&N Dec. at 53; *see also 1756, Inc. v. Attorney General*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend to all employees with specialized knowledge, but rather to “key personnel” and “executives.”)

A 1994 Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) memorandum written by the then Acting Associate Commissioner also directs CIS to compare the beneficiary’s knowledge to the general United States labor market and the petitioner’s workforce in order to distinguish between specialized and general knowledge. The Associate Commissioner notes in the memorandum that “officers adjudicating petitions involving specialized knowledge must ensure that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized.” Memorandum from James A. Puleo, Acting Executive Associate Commissioner, Immigration and Naturalization Service, *Interpretation of Specialized Knowledge*, CO 214L-P (March 9, 1994). A comparison of the beneficiary’s knowledge to the knowledge possessed by others in the field is therefore necessary in order to determine the level of the beneficiary’s skills and knowledge and to ascertain whether the beneficiary’s knowledge is advanced. In other words, absent an outside group to which to compare the beneficiary’s knowledge, CIS would not be able to “ensure that the knowledge possessed by the beneficiary is truly specialized.” *Id.* The analysis for specialized knowledge therefore requires a test of the knowledge possessed by the United States labor market, but does not consider whether workers are available in the United States to perform the beneficiary’s job duties.

As explained above, the record does not distinguish the beneficiary’s knowledge as more advanced than the knowledge possessed by other people employed by the petitioning organization, by other AutoSoft dealers, or by software workers in general employed elsewhere. As the petitioner has failed to document any materially unique qualities to the beneficiary’s knowledge, the petitioner’s claims are not persuasive in establishing that

the beneficiary, while perhaps highly skilled, would be a "key" employee. There is no indication that the beneficiary has any knowledge that exceeds that of any other similarly experienced worker or that he has received special training in the company's product or service which would separate him from other professionals employed with the petitioning organization, other AutoSoft dealers, or elsewhere. It is simply not reasonable to classify this employee as a key employee of crucial importance to the organization.

The legislative history of the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc. v. Attorney General, supra* at 16. Based on the evidence presented, it is concluded that the beneficiary will not be employed in the United States, and was not employed abroad, in a capacity involving specialized knowledge. For these reasons, the appeal will be dismissed.

Beyond the decision of the director, the petitioner has failed to establish that the foreign employer is "doing business," and, thus, has failed to establish that the foreign employer is a qualifying organization.

A petition filed on Form I-129 shall be accompanied by evidence that the petitioner and the organization which employed the beneficiary abroad are "qualifying organizations." 8 C.F.R. § 214.2(l)(3)(i). To establish a "qualifying relationship" under the Act and the regulations, the petitioner must show that the beneficiary's foreign employer and the proposed United States 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). If a firm, corporation, or legal entity owns more than half of the foreign entity and controls the entity, the organizations are related as "parent and subsidiary." *See* 8 C.F.R. §§ 214.2(l)(1)(ii)(I) and (K). The petitioner must also establish that the foreign employer "[i]s or will be doing business." 8 C.F.R. § 214.2(l)(1)(ii)(G)(2). "Doing business" is defined in pertinent part as "the regular, systematic, and continuous provision of goods and/or services." 8 C.F.R. § 214.2(l)(1)(ii)(H).

In this matter, the petitioner asserts that it owns 51% of the foreign employer, a Manitoba corporation. The petitioner further asserts that the beneficiary has been employed either by the Manitoba corporation, or by a "branch office" of the petitioner in Canada, since January 2005. Finally, the petitioner asserts that the beneficiary has been employed in Canada by a qualifying organization as an "account manager" working with AutoSoft products. However, the record is devoid of evidence of the petitioner engaging in business in Canada. The record does not contain any invoices or other Canadian business documents corroborating these claims. Once again, 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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190).

Furthermore, there is evidence in the record that directly contradicts the petitioner's assertion that it is, and has been, conducting AutoSoft related business in Canada. In support of its petition, the petitioner submitted a document dated September 28, 2002 titled "AutoSoft DMS Limited Liability Company Operating Agreement." Pages 31 and 32 of this document make clear that a business entity called "AutoSoft Canada" has been assigned the right to conduct AutoSoft-related business in Canada. The petitioner's territory is limited to Idaho, Montana, North Dakota, Utah, Wyoming, and Colorado. The foreign employer, the

Manitoba subsidiary, is not listed in the agreement. This arrangement was confirmed in the letter from AutoSoft Canada Inc. dated September 18, 2007 which was submitted on appeal. In that letter, the author states that AutoSoft Canada Inc. "hold[s] an enforceable right to be the exclusive distributor of AutoSoft products in [its] region." The petitioner offers no explanation for how it has been able to conduct AutoSoft related business in Canada when the operating agreement clearly prohibits this activity. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.

Accordingly, as the petitioner has failed to credibly establish that the foreign employer is "doing business" abroad, the petitioner has failed to establish that the foreign employer is a qualifying organization, and the petition will be denied for this additional reason.

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 Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.*, 229 F. Supp. 2d at 1043.

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, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.