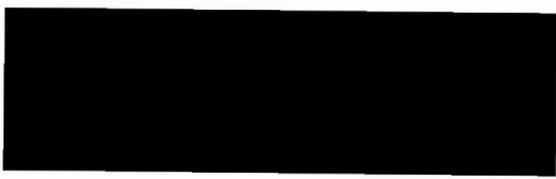


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Services

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FILE: WAC 07 157 50255 Office: CALIFORNIA SERVICE CENTER Date: **AUG 27 200**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

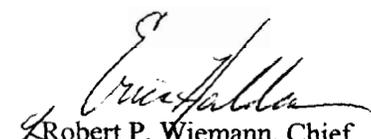
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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.


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 appeal will be summarily dismissed.

The petitioner claims to be a provider of ASIC and embedded solutions and services. It seeks to extend the employment of the beneficiary as a nonimmigrant intracompany transferee with specialized knowledge pursuant to § 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(L). On June 12, 2007, the director approved the petition. On November 30, 2007, the director issued a notice of intent to revoke the petition, noting that the evidence did not support a finding that a qualifying relationship existed between the petitioner and the foreign entity. In a response dated December 20, 2007, the petitioner addressed the director's notice and submitted additional documentation in support of the qualifying relationship. The director found that the evidence submitted, both with the initial petition and in response to the notice of intent to revoke, was insufficient to establish the petitioner's eligibility. Consequently, the director revoked the petition on January 10, 2008.

On January 24, 2008, counsel for the petitioner filed a motion to reopen / reconsider the director's revocation. On February 19, 2008, the director dismissed the motion, concluding that it failed to state new facts and was not supported by affidavits or other documentary evidence. Furthermore, the director concluded that it did not state the reasons for reconsideration supported by pertinent precedent decisions to establish that the decision was based on an incorrect application of law or service policy.

On the Notice of Appeal received on March 17, 2008, counsel for the petitioner clearly indicates that she would send a brief with the necessary evidence to the AAO within thirty days. Although counsel submitted an explanatory statement on Form I-290B, she failed to address the director's conclusions. In this brief statement, counsel stated:

The Service has made an error on the facts, statement of facts and error on the conclusion of the law in not reopening the case on our MTR and withdrawing the revocation and letting the previous approval stand.

We hereby appeal the decision of the Service to dismiss our MTR and request the file be sent to the AAO where they can review this decision and underlying facts of the case.

This is an appeal of the service's decision to dismiss out MTR. We have 33 days to respond to this decision and therefore this appeal is timely filed.

Counsel's general statement on Form I-290B did not address or specifically identify any errors on the part of the director, and is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Although counsel requested additional time to submit an appeal, to date there is no indication that the petitioner or counsel ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO.¹ As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(1)(v).

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

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. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.

¹ On August 12, 2008, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had been received in this matter and requested that counsel submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. As of the date of this decision, the AAO has received no response from counsel or the petitioner.