

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Room 3000
Washington, DC 20529-2090
MAIL STOP 2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

b7



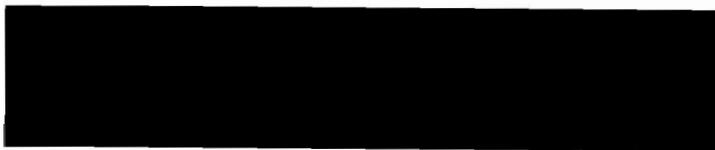
FILE: EAC 08 029 51314 Office: VERMONT SERVICE CENTER Date: NOV 26 2008

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)

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.


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 is a retail and wholesale florist. It seeks to temporarily employ the beneficiary as its chief floral designer, and filed a petition to classify the beneficiary as a nonimmigrant intracompany transferee with specialized knowledge. The director denied the petition, finding that the petitioner had not established that the beneficiary possessed specialized knowledge or that the proffered position required specialized knowledge.

On appeal, counsel submits a brief and asserts that the director's decision was erroneous. Specifically, counsel contends that the petitioner needs top quality designs to distinguish its products from other competitors. Therefore, counsel asserts that the services of the beneficiary, who is an artist by virtue of his experience, training and exposure to other designers, is necessary to allow the petitioner to meet this goal.

To establish L-1 eligibility, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). Specifically, within three years preceding the beneficiary's application for admission into the United States, 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. 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.

This matter presents two related, but distinct, issues: (1) whether the beneficiary possesses specialized knowledge; and, (2) whether the proposed employment is in a capacity that requires specialized knowledge.

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

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.

As stated above, the petitioner seeks to employ the beneficiary temporarily in Puerto Rico as its chief floral designer. On Form I-129, filed on November 7, 2007, the petitioner stated that the beneficiary "designs flower arrangements for special events and oversees and trains [a] team of four florist[s]." A letter of support from the petitioner dated October 19, 2007 further described the nature of the beneficiary's knowledge and the requirements of the proposed position. Regarding the specialized knowledge of the proposed position in the United States, the petitioner stated:

[The petitioner] wishes to employ [the beneficiary] as Chief Floral Designer. His principal duties and responsibilities will include: selecting and training flower designers for the Company's two stores in Puerto Rico, meeting with corporate and individual clients to plan the decorations for special events, submitting design and cost estimate to clients, preparing samples of flower arrangements for store displays and for meetings with clients planning special events, supervising installation of flower arrangements and quality of flowers and other materials used in decoration of special events to ensure that Company standards as an executive florist and leader in the market are maintained.

Regarding the beneficiary's knowledge and experience, the petitioner stated:

Since 2005, [the beneficiary] has been employed as Chief Floral Designer at [the foreign entity]. In this capacity he was responsible for the training and supervision of florists in the stores located in Bogotá. The training provided included [the petitioner's] signature flower designs and cut flower preservation techniques and consisted of floral designs; flower quality and handling; combination of colors and shapes of flowers; preparation of special arrangements and events such as conventions, receptions, fairs, debutante balls, weddings, etc.; preparation of exhibits, window decorations and displays. Special floral design styles

include bouquet, fan, roses, horizontal, tropical, topiary, etc. [The beneficiary] is also an expert designing and preparing Christmas decorations.

The petitioner also submitted a document entitled "Personal Profile" of the beneficiary, which listed the beneficiary's educational background, professional background and work experience. It indicated that the beneficiary had completed courses in flower décor and arrangements with international decorators in the city of Bogotá, and currently had eleven years of experience in flower arranging with various companies. The petitioner also submitted translated copies of certificates evidencing the beneficiary's attendance at the Second International Congress of Florists on July 25 and July 26, 2000, as well as certificates verifying his employment history.

The director found this evidence insufficient to establish the beneficiary's eligibility, and issued a request for additional evidence on November 16, 2007. Specifically, the director requested information establishing the beneficiary's specialized knowledge, and requested evidence such as a description of a typical work week for the beneficiary, the manner in which he gained his specialized knowledge such as the amount of classroom or on-the-job training he received and the minimum amount of time required to train a person in the proposed position. Additionally, the director requested evidence demonstrating that the beneficiary's position in Puerto Rico required specialized knowledge. Finally, the director asked for evidence that the beneficiary's knowledge is uncommon, noteworthy, or distinguished, and not generally known by practitioners in the field or that his advanced knowledge of the company's processes and procedures is apart from the basic knowledge possessed by others.

Counsel for the petitioner addressed these requests in a response dated January 30, 2008. First, counsel provided the following overview of the beneficiary's qualifications:

[The beneficiary] has been Chief Floral Designer for [the foreign entity] in Colombia since 2005 responsible for designing the concept that distinguishes their flower arrangements from those of the hundreds of flower shops in Bogotá. This is a very significant achievement since it requires not only knowledge of the stringent corporate standards required to maintain [the petitioner's] position in the market, but also entails a vast knowledge of flowers, their appropriate combinations, color schemes, new trends, but most importantly, excellent taste and artistic ability. One can teach a person how to handle flowers and even how to mix different types of flowers and colors, but artistic ability and taste are innate. That means that some people are born with it, but most are not. During the three years that [the beneficiary] has been with [the foreign entity] he has been a significant asset. . . .

The petitioner, through counsel, also submitted an overview of a typical work week for the beneficiary abroad, and a typical work week for the proposed position in Puerto Rico. It appears from review of these documents that the work weeks would be very similar in both companies. Specifically, in a typical week, the petitioner indicated that the beneficiary is responsible for verifying that flowers and flower arrangements already made meet specific standards; preparing designs and pending orders; purchasing flowers; and meeting with clients to discuss arrangements for special occasions such as weddings.

Finally, the petitioner submitted a certificate from the Employee Fund “Flores del Bosque” stating that the beneficiary has offered training courses in the subject of floral design to the associates of the Employee Fund since 1995.

On February 15, 2008, the director denied the petition. Specifically, the director found that the petitioner failed to specifically document how the beneficiary’s knowledge of the processes and procedures of the petitioner’s organization is substantially different from, or advanced in relation to, any individual similarly employed by the petitioner. The director also noted that the record contained no evidence demonstrating the floral designs of the petitioner and their claimed uniqueness.

On appeal, counsel focuses on the reputation of the petitioner for excellence and uniqueness in floral design, and fails to specifically address the key reasons for the director’s denial. Instead, counsel states that the foreign entity provided the beneficiary with an advanced knowledge of flower varieties, flower handling, flower type combinations and design trends, and that this experience, coupled with his creativity and gift for design, has qualified him for the benefit sought. Counsel submits a copy of the 2002 Economic Census of Island Areas, as well as two testimonials from clients, in support of the contention that the petitioner’s enterprise is well established in the industry.

Upon review, the AAO concurs with the director’s decision.

As enacted by the Immigration Act of 1990, section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

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.

Looking to the plain language of the statutory definition, Congress has provided USCIS with an ambiguous definition of specialized knowledge. Although *1756, Inc. v. Attorney General* was decided prior to enactment of the Immigration Act of 1990, the court’s discussion of the ambiguity in the former INS definition is equally illuminating when applied to the definition created by Congress:

This ambiguity is not merely the result of an unfortunate choice of dictionaries. It reflects the relativistic nature of the concept special. An item is special only in the sense that it is not ordinary; to define special one must first define what is ordinary. . . . There is no logical or principled way to determine which baseline of ordinary knowledge is a more appropriate reading of the statute, and there are countless other baselines which are equally plausible. Simply put, specialized knowledge is a relative and empty idea which cannot have a plain meaning. *Cf. Westen, The Empty Idea of Equality*, 95 Harv.L.Rev. 537 (1982).

745 F.Supp. 9, 14-15 (D.D.C., 1990).

In effect, Congress has charged the agency with making a comparison based on a relative idea that has no plain meaning. To determine what is special, USCIS must first determine the baseline of ordinary.

While Congress did not provide explicit guidance for what should be considered ordinary knowledge, the canons of statutory interpretation provide some clue as to the intended scope of the L-1B specialized knowledge category. *NLRB v. United Food & Commercial Workers Union, Local 23*, 484 U.S. 112, 123 (1987) (citing *INS v. Cardoza-Fonseca*, 480 U.S. 421, 107 S.Ct. 1207, 94 L.Ed.2d 434 (1987)).

First, it is instructive to look at the common dictionary definitions of the terms "special" and "advanced." According to Webster's New World College Dictionary, the word "special" is commonly found to mean "of a kind different from others; distinctive, peculiar, or unique." *Webster's New World College Dictionary*, 1376 (4th Ed. 2008). The dictionary defines the word "advanced" as "ahead or beyond others in progress, complexity, etc." *Id.* at 20.

Second, looking at the term's placement within the text of section 101(a)(15)(L), the AAO notes that specialized knowledge is used to describe the nature of a person's employment and that the term is listed among the higher levels of the employment hierarchy with "managerial" and "executive" employees. Based on the context of the term within the statute, the AAO would expect a specialized knowledge employee to be an elevated class of workers within a company and not an ordinary or average employee. *See 1756, Inc. v. Attorney General*, 745 F.Supp. 9, 14 (D.D.C., 1990).

Third, the legislative history indicates that the original drafters intended the class of aliens eligible for the L-1 classification would be "narrowly drawn" and "carefully regulated and monitored" by USCIS. *See generally* H.R. Rep. No. 91-851 (1970), reprinted in 1970 U.S.C.C.A.N. 2750, 2754, 1970 WL 5815. The legislative history of the 1970 Act plainly states that "the number of temporary admissions under the proposed 'L' category will not be large." *Id.* This legislative history has been widely viewed as supporting a narrow reading of the definition of specialized knowledge and the L-1 visa classification in general. *See 1756, Inc. v. Attorney General*, 745 F.Supp. at 15-16; *Boi Na Braza Atlanta, LLC v. Upchurch*, Not Reported in F.Supp.2d, 2005 WL 2372846 at *4 (N.D.Tex., 2005), *aff'd* 194 Fed.Appx. 248 (5th Cir. 2006); *American Auto. Ass'n v. Attorney General*, Not Reported in F.Supp., 1991 WL 222420 (D.D.C. 1991); *Fibermaster, Ltd. v. I.N.S.*, Not Reported in F.Supp., 1990 WL 99327 (D.D.C., 1990); *Delta Airlines, Inc. v. Dept. of Justice*, Civ. Action 00-2977-LFO (D.D.C. April 6, 2001)(on file with AAO).

Although the Immigration Act of 1990 provided a statutory definition of the term "specialized knowledge," the definition did not expand the class of persons eligible for L-1B specialized knowledge visas. Pub.L. No. 101-649, § 206(b)(2), 104 Stat. 4978, 5023 (1990). Instead, the legislative history indicates that that Congress created the statutory definition of specialized knowledge for the express purpose of clarifying a previously undefined term from the Immigration Act of 1970. H.R. Rep. 101-723(I) (1990), reprinted in 1990 U.S.C.C.A.N. 6710, 6749, 1990 WL 200418 ("One area within the L visa that requires more specificity relates to the term 'specialized knowledge.' Varying interpretations by INS have exacerbated the problem."). While the 1990 Act declined to extend the "proprietary knowledge" and "United States labor market" references that had existed in the existing agency definition, there is no indication that Congress intended to liberalize the L-1B visa classification.

If any conclusion can be drawn from the ultimate statutory definition of specialized knowledge and the changes made to the legacy INS regulatory definition, the point would be based on the nature of the Congressional clarification itself. Prior to the 1990 Act, legacy INS pursued a bright-line test of specialized knowledge by including a "proprietary knowledge" element in the regulatory definition. *See* 8 C.F.R. § 214.2(l)(1)(ii)(D) (1988). By deleting this element in the ultimate statutory definition and further emphasizing the relativistic aspect of "special knowledge," Congress created a standard that requires USCIS to make a factual determination that can only be determined on a case-by-case basis, based on the agency's expertise and discretion. Rather than a bright-line standard that would support a more rigid application of the law, Congress gave legacy INS a more flexible standard that requires an adjudication based on the facts and circumstances of each individual case. *Cf. Ponce-Leiva v. Ashcroft*, 331 F.3d 369, 377 (3d Cir. 2003) (quoting *Baires v. INS*, 856 F.2d 89, 91 (9th Cir.1988)).

Accordingly, as a baseline, the terms "special" or "advanced" must mean more than simply skilled or experienced. By itself, work experience and knowledge of a firm's technically complex products will not equal "special knowledge." *Matter of Penner*, 18 I&N Dec.49, 53 (Comm. 1982). Specialized knowledge requires more than a short period of experience, otherwise "special" or "advanced" knowledge would include every employee in an organization with the exception of trainees and entry-level staff. If everyone in an organization is specialized, then no one can be considered truly specialized.

Considering the definition of specialized knowledge, it is the petitioner's fundamental burden to articulate and prove that an alien possesses "special" or "advanced" knowledge. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

After articulating the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. A petitioner's assertion that the alien possesses an advanced level of knowledge of the processes and procedures of the company must be supported by evidence describing and setting apart that knowledge from the elementary or basic knowledge possessed by others. Because "special" and "advanced" are comparative terms, the petitioner should provide evidence that allows USCIS to assess the beneficiary's knowledge relative to others in the petitioner's workforce or relative to similarly employed workers in the petitioner's industry.

In examining the specialized knowledge capacity of the beneficiary, the AAO will look to the petitioner's description of the job duties and the weight of the evidence supporting any asserted specialized knowledge. *See* 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed job description of the services to be performed sufficient to establish specialized knowledge. In this case, the petitioner fails to establish that the beneficiary's proposed position in Puerto Rico requires an employee with specialized knowledge or that the beneficiary has specialized knowledge.

In the present matter, the petitioner has provided a generic description of the beneficiary's intended employment with the Puerto Rican entity. Specifically, the petitioner asserts that the main functions of the

beneficiary's proposed position are training other floral designers on staff and arranging and assembling arrangements for various events and functions. The petitioner, however, has not sufficiently documented how the beneficiary's performance of the proposed job duties distinguishes his knowledge as specialized. The petitioner repeatedly states throughout the record that the beneficiary is inherently an artist, and through his own creativity and the experience he gained with the foreign entity by working with flower varieties and design trends, is thus instilled with special and advanced knowledge of the petitioner's procedures with regard to flower arranging and handling.

As stated above, it is the petitioner's fundamental burden to articulate and prove that an alien possesses "special" or "advanced" knowledge. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). CIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

No details were provided regarding the type of specific training, if any, the beneficiary received during his employment with the foreign entity. Moreover, the petitioner on appeal relies upon a certificate affirming that the beneficiary has conducted floral arranging workshops since 1995 as a basis for his specialized knowledge; however, no discussion of how he learned the skills necessary to conduct these courses, or the manner in which his skills are substantially different from other employees of the petitioner, is submitted. Essentially, the petition is based on the petitioner's claim that the beneficiary is inherently artistic and creative and thus possesses specialized knowledge not normally possessed by the petitioner's other employees or floral arrangers. Specifically, counsel claims in the response to the request for evidence that "some people are born with it, but most are not." This statement is simply insufficient to overcome the well-reasoned conclusions cited by the director as a basis for the denial. The beneficiary's artistic ability does not equate to, nor is it relevant to, the issue of whether he possesses specialized knowledge specific to the petitioning organization.

In this matter, the petitioner has omitted any discussion of the nature of the beneficiary's knowledge. For example, what truly distinguishes the beneficiary's skills from other floral arrangers or colleagues? Are there types of unique or exotic flowers implemented in the petitioner's designs that distinguish these designs from competitors, and if so, what type of training is required to work with such arrangements? The petitioner provides no details regarding any aspects of the petitioner's business which would distinguish the petitioner's processes as uncommon or distinctive and thus lead to a conclusion that the beneficiary's knowledge was likewise uncommon or distinctive. The 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)).

In the present matter, the petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge in the floral business is more special or advanced than the knowledge possessed by others employed by the petitioner, or in the industry. It is clear that the petitioner considers the beneficiary to be an important employee of the organization. The AAO, likewise, does not dispute the fact that the beneficiary's

knowledge has allowed him to competently perform his job in the foreign entity. However, the successful completion of one's job duties does not establish possession of specialized knowledge or establish employment that requires specialized knowledge.

For this reason, the proposed Puerto Rican position does not appear to require specialized knowledge. While the position of Chief Floral Designer may require a comprehensive knowledge of the manner in which to choose, assemble and arrange flowers and instruct others in such methods, there is no documentation, other than counsel's assertions, that the beneficiary must possess advanced, "specialized knowledge" as defined in the regulations and the Act. On appeal, counsel asserts that "the uncommon combination of skills and art that the Beneficiary has cannot be easily transferred or taught to another individual." This statement alone is insufficient to establish that the beneficiary possesses specialized knowledge or that the proposed position requires specialized knowledge. As previously stated, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. at 534; *Matter of Laureano*, 19 I&N Dec. 1; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506.

Based on the evidence presented, it is concluded that the beneficiary does not possess specialized knowledge, nor would the beneficiary be employed in a capacity requiring specialized knowledge. For this reason, the appeal will be dismissed.

Beyond the decision of the director, the petitioner has failed to establish that a qualifying relationship exists between the foreign entity and the Puerto Rican company. The petitioner claims on Form I-129 that the petitioner in this matter is the subsidiary of the foreign entity. However, it also states that two individuals, [REDACTED] and his wife, [REDACTED] are the owners of both companies. Therefore, the proper analysis in this matter is whether the two companies are affiliates.

Pursuant to the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(L), "affiliate" means

- (1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or
- (2) One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity, or
- (3) In the case of a partnership that is organized in the United States to provide accounting services along with managerial and/or consulting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the

agreement with the worldwide coordinating organization of which the United States partnership is also a member.

In this matter, the petitioner has submitted documentation to demonstrate that the foreign entity is owned equally by [REDACTED] and [REDACTED]. In support of the contention that these two individuals also own the petitioner in equal amounts, the petitioner has submitted copies of ten stock certificates. Certificates one through nine are marked "canceled," and certificate ten is issued to [REDACTED] for 750 shares. Based on certificate ten, and the petitioner's submission of a marriage certificate for [REDACTED] and [REDACTED], the petitioner contends that the affiliate relationship has been satisfied. The AAO disagrees.

The regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities for purposes of this visa classification. *Matter of Church Scientology International*, 19 I&N Dec. 593 (BIA 1988); *see also Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362 (BIA 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm. 1982). In the context of this visa petition, ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology International*, 19 I&N Dec. at 595.

The petitioner's assertions that a qualifying relationship exists are flawed for two reasons. First, as general evidence of a petitioner's claimed qualifying relationship, stock certificates alone are not sufficient evidence to determine whether a stockholder maintains ownership and control of a corporate entity. The corporate stock certificate ledger, stock certificate registry, corporate bylaws, and the minutes of relevant annual shareholder meetings must also be examined to determine the total number of shares issued, the exact number issued to the shareholder, and the subsequent percentage ownership and its effect on corporate control. Additionally, a petitioning company must disclose all agreements relating to the voting of shares, the distribution of profit, the management and direction of the subsidiary, and any other factor affecting actual control of the entity. *See Matter of Siemens Medical Systems, Inc.*, 19 I&N Dec. 362. Without full disclosure of all relevant documents, USCIS is unable to determine the elements of ownership and control.

In this matter, the petitioner relies upon stock certificate number 10, which indicates that the beneficiary is the owner of 750 shares of the foreign entity. However, it is noted for the record that this certificate is not dated, which leads to questions regarding the validity of this document. Moreover, the petitioner has failed to submit evidence pertaining to the actual dates of transfer of the canceled certificates. As stated above, this is the reason that all relevant documents, including the stock ledger, must be examined to determine the validity of the petitioner's claims of ownership and control. Since the petitioner has failed to sufficiently document the ownership of the foreign entity, a qualifying relationship cannot be concluded. For this additional reason, the petition may not be approved.

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).

When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if she shows that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *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).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.

ORDER: The appeal is dismissed.