



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 20186377

Date: APRIL 29, 2022

Motion on Administrative Appeals Office (AAO) Decision

Form I-129, Nonimmigrant Petition for an Intracompany Transferee

The Petitioner, a telecommunications company, seeks to temporarily employ the Beneficiary as president under the L-1A nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The petition was filed with U.S. Citizenship and Immigration Services (USCIS) in March 2018 and initially approved in July 2018. The Beneficiary was issued an L-1A visa in [redacted] Poland, on November 5, 2018, and entered the United States later that month to set up the Petitioner's "new office" in [redacted] New York. The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). Following a site visit of the Petitioner's premises by a USCIS officer in April 2019, however, the Director of the Texas Service Center issued a notice of intent to revoke (NOIR) the approved petition in September 2019. As grounds for revocation the Director indicated that the evidence of record was did not establish that (1) sufficient physical premises had been secured to house the new office, as required by the regulation at 8 C.F.R. § 214.2(l)(3)(v)(A), or that (2) the Beneficiary would be employed in a managerial or executive capacity in the United States within one year of the petition's approval, as required by the regulation at 8 C.F.R. § 214.2(l)(3)(v)(C). After receiving the Petitioner's response to the NOIR, the Director issued a decision on December 23, 2019, revoking the petition's approval on the first ground – that the Petitioner did not establish it had secured sufficient premises to house the new office.

The Petitioner filed a timely appeal with the AAO, along with some additional documentation. In dismissing the appeal on July 16, 2021, we determined that the new evidence still failed to establish that the Petitioner had secured sufficient premises to house the new office. In our decision we referred to the site visit in April 2019 of the Petitioner's premises in [redacted] by a USCIS officer, who observed that the "office" consisted of one room in a residential apartment that was too small to house another employee and contained a single laptop on a coffee table. While the Petitioner claimed that the office was equipped with a desktop, two computers, a printer, a scanner, and a fax, no photographs or other corroborating evidence was submitted. In the meantime, the Petitioner asserted that its business premises were moved in July 2019 to its current address on [redacted] in [redacted]. None of the materials submitted in support of the appeal, however, consisting for the most part of documents dated in the second half of 2019, linked the Petitioner to its current address on [redacted] or revealed anything about those premises. Thus, the record still did not establish that the Petitioner had sufficient physical premises to house its new office, and we dismissed the appeal accordingly.

The matter is now before us on a motion to reopen and a motion to reconsider. A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. *See* 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that the previous decision was based on an incorrect application of law or USCIS policy. *See* 8 C.F.R. § 103.5(a)(3). For the reasons discussed below, we will dismiss both motions.

In support of the current motion(s) the Petitioner submits a copy of a statement from its president, the Beneficiary, which was initially submitted in October 2019 in response to the Director's NOIR. The Beneficiary's statement recounted the purpose of his initial months in the United States ("find an office space, research local market, establish business relationships, find and hire local staff"), confirmed that its first office was located on [redacted] Avenue in [redacted], and asserted that in July 2019 the business moved to its current office at [redacted] Suite 1740, in [redacted]. According to the Petitioner, the [redacted] office had "everything needed for the successful continuation of the [business]." While the Beneficiary's statement asserted that photos of both the original office in [redacted] and the current office in [redacted] were attached, no such photos accompanied the response to the NOIR. This evidentiary deficiency has not been remedied as no photos of the business premises have been submitted in support of the current motion(s). Nor has the Petitioner submitted any other evidence relating to its current office in [redacted] such as a lease agreement or other documentation showing its size and layout. The only new document submitted with the current motion(s) is a letter from counsel which claims that the Petitioner's business is going well, but is unaccompanied by any documentary evidence relating to its office in [redacted] or any other aspect of the business.

The Petitioner has not stated any new facts in its motion to reopen, nor submitted any new evidence in support thereof, as required by 8 C.F.R. § 103.5(a)(2). Nor has the Petitioner shown that our previous decision dismissing the appeal on July 16, 2021, was based on any incorrect application of law or USCIS policy, as required for a motion to reconsider under 8 C.F.R. § 103.5(a)(3). As the Petitioner has not shown proper cause for reopening or reconsideration of our prior decision, the current motions to reopen and reconsider will be dismissed.<sup>1</sup>

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.

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<sup>1</sup> In our previous decision dismissing the appeal we noted that the record does not demonstrate the Petitioner's qualifying relationship with the Beneficiary's foreign employer or the qualifying nature of his work abroad. *See* 8 C.F.R. § 214.2(l)(3)(v)(B). Since the NOIR did not notify the Petitioner of these evidentiary deficiencies, in accordance with the requirements of 8 C.F.R. § 214.2(l)(9)(iii), they do not currently constitute additional grounds for revocation of the petition's approval. In any future proceedings the Petitioner may have to address these issues.