U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10700413

Date: MAR. 26, 2021

Appeal of California Service Center Decision

Form I-129, Petition for Blanket L-1 Approval

The Petitioner seeks approval of a blanket petition to expedite future transfers of foreign workers to the United States under the L-1 nonimmigrant visa classification for intracompany transferees. See Immigration and Nationality Act (the Act) section 214(c)(2)(A), 8 U.S.C. § 1184(c)(2)(A).

The Director of the California Service Center denied the petition. The Director concluded that the Petitioner did not meet the regulatory requirements for approval of a blanket petition. Specifically, the Director found that the company did not demonstrate that it has been doing business in the United States for at least one year and has at least three foreign and domestic branches, subsidiaries, or affiliates. The Director also found that the Petitioner did not establish that it and the other entities listed in the petition engage in commercial activities and have obtained at least 10 L-1 petition approvals during the prior year, have U.S. subsidiaries or affiliates with combined annual sales of at least $25 million, or have a U.S. work force of at least 1,000 employees.

The Petitioner bears the burden of establishing eligibility for the requested benefit. See section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will dismiss the appeal.

I. BLANKET L PETITIONS

L-1 visa status allows qualified noncitizens to temporarily work in the United States if their petitioners or the petitioners' parents, branches, affiliates, or subsidiaries continuously employed the workers abroad for at least one year in the three years before the filings of their petitions. Section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L). A blanket L approval notice lists U.S. and foreign qualifying organizations within a petitioner's business group, eliminating the need to establish a qualifying relationship in individual cases. 8 C.F.R. § 214.2(l)(4)(iii). Blanket L approval allows petitioners to submit nonimmigrant petitions (on Forms I-129S) for managers, executives, and specialized knowledge professionals directly to U.S. consulates or border officials. 8 C.F.R. § 214.2(l)(5).

A petitioner may file a blanket L petition if: (1) the petitioner and each of the listed entities engage in commercial trade or services; (2) the petitioner has an office in the United States that has been doing business for at least one year; (3) the petitioner has three or more domestic and foreign branches, subsidiaries, or affiliates; and (4) the petitioner and the other listed qualifying organizations: have

obtained approval of petitions for at least ten "L" managers, executives, or specialized knowledge professionals during the previous 12 months; have U.S. subsidiaries or affiliates with combined annual sales of at least $25 million; or have a U.S. work force of at least 1,000 employees. 8 C.F.R. § 214.2(l)(4)(i).

II. DOING BUSINESS FOR AT LEAST ONE YEAR

A blanket L petitioner must demonstrate that it has an office in the United States that has been "doing business" for at least one year. 8 C.F.R. § 214.2(l)(4)(i)(B). The term "doing business" means "the regular, systematic, and continuous provision of goods and/or services . . . and does not include the mere presence of an agent or office." 8 C.F.R. § 214.2(l)(1)(ii)(H).

The Petitioner describes itself as a manufacturer of water treatment products and documented its U.S. formation in [redacted] 2018.[1] The Petitioner filed the petition in November 2019 and claims that it has been doing business in the United States since its formation.

The Director found that the record lacks sufficient evidence to corroborate the company's claimed U.S. business activities since at least November 2018, one year before the petition's filing. See 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to establish eligibility "at the time of filing"). The Petitioner submitted copies of 2018 audited financial statements and a 2018 annual report of a former owner of the water treatment operations. As the Director found, however, the documents do not indicate that the company owned the Petitioner or acquired its assets in whole or part as its successor-in-interest. The documents therefore do not demonstrate the Petitioner's engagement in U.S. business activities for at least one year. See 8 C.F.R. § 214.2(l)(4)(iv)(A) (requiring a petitioner to submit evidence that it meets the regulatory requirements of a blanket L petition).

To establish the Petitioner's U.S. business activities, the Director's written request for additional evidence suggests that the Petitioner submit copies of sales invoices, export declarations, bank statements, or other documentation. The Petitioner, however, did not provide any of the suggested materials.

The record does not establish the Petitioner's regular, systematic, and continuous provision of goods or services in the United States for at least one year before the petition's filing. We will therefore affirm the petition's denial on this ground.

III. THREE BRANCHES, SUBSIDIARIES, OR AFFILIATES

A blanket L petitioner must demonstrate that it has at least three "domestic and foreign branches, subsidiaries, or affiliates" and that all entities listed in the petition are "qualifying organizations." 8 C.F.R. §§ 214.2(l)(4)(i)(C), (iv)(B). Branches, subsidiaries, and affiliates are corporate relationships that the regulations define in terms of ownership and control. 8 C.F.R. §§ 214.2(l)(1)(ii)(J), (K), (L). Ownership means the direct or indirect legal right of possession of the assets of an entity with full power and authority to control. Matter of Church Scientology Int'l, 19 I&N Dec. 593, 595 (Comm'r

[1] The documentation indicates the Petitioner's formation as a corporation and later conversion to a limited liability company.

1988) (citations omitted). Control refers to the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. Id.

A blanket L petitioner must also submit evidence that "all entities for which approval is sought are qualifying organizations." 8 C.F.R. § 214.2(l)(4)(iv)(B). The term "qualifying organization" includes a parent, branch, affiliate, or subsidiary, as defined by the regulations. 8 C.F.R. § 214.2(l)(1)(ii)(G).

Including itself, the Petitioner listed 18 companies in the petition as qualifying organizations. The list describes the Petitioner and 16 of the entities as wholly owned subsidiaries of a U.S. corporation. The Petitioner also submitted organizational charts of the group's corporate structure.

Some of the entities listed in the petition do not appear on the organizational charts. The petition lists companies in Belgium, Germany, and the Netherlands. But the charts do not list the same entities as part of the Petitioner's corporate structure. The discrepancies cast doubts on the claimed qualifying relationships among the entities. A petitioner must resolve inconsistencies of record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591 (BIA 1988).

The Petitioner also submitted numerous corporate documents regarding itself and other entities. This evidence, however, does not establish the required elements of ownership and control. We therefore agree with the Director that the record does not demonstrate qualifying relationships among the listed entities and the Petitioner. The record contains documentation regarding past owners and past names of some entities. But the evidence does not document the Petitioner's claim that it or any of the listed entities are wholly owned subsidiaries of the purported parent.

The Petitioner further submitted copies of a press release and other documents regarding an equity firm's February 2019 purchase of the water treatment operations from the former owner. But these documents do not specify the entities acquired by the equity firm or the equity firm's relationship to the Petitioner and the purported U.S. parent.

Further, although unaddressed by the Director, the Petitioner submitted corporate documents regarding Argentinian and Mexican entities in the Spanish language without certified, English translations. A full translation in the English language must accompany any document containing a foreign language. 8 C.F.R. § 103.2(b)(3). Translators must also certify that their translations are complete and accurate, and that the translators are competent to translate from the corresponding foreign languages to English. Id. Thus, in any future filings in this matter, the Petitioner must submit certified, English translations of these corporate documents.

For the foregoing reasons, the record does not establish that the Petitioner has at least three branches, subsidiaries, or affiliates, or that the entities listed in the petition are qualifying organizations. We will therefore also affirm the petition's denial on this ground.

IV. COMMERCIAL TRADE OR SERVICES

A petitioner must further establish that it "and each of those entities" listed in a blanket L petition engage in "commercial trade or services." 8 C.F.R. § 214.2(l)(4)(i)(A). Under this requirement, a

petitioner must demonstrate that it and listed entities provide goods or services for profit. Final Rule for L Petitions, 52 Fed. Reg. 5738, 5743 (Feb. 26, 1987).

The Petitioner claims that it and the other entities listed in the petition make water treatment products and sell them for profit to homeowners, businesses, and governments.

As the Director found, however, the record does not establish that all the listed entities engage in commercial activities. The Director found that the 2018 audited financial statements and annual report of the former owner establish only the commercial trade of a listed, South African entity. The Petitioner argues on appeal that a note to the financial statements identifies other entities listed in the petition, indicating that they similarly engage in commerce. But the note does not identify listed entities in Belgium, China, Germany, or India. Thus, contrary to 8 C.F.R. § 214.2(l)(4)(i)(A), the record does not demonstrate that all the listed entities engage in commerce.

Moreover, as previously discussed, the Petitioner has not demonstrated that it has been doing business. Thus, the record similarly does not establish the Petitioner's engagement in commercial trade or services. The Director therefore correctly found that the Petitioner has not demonstrated the engagement of it and each listed entity in commercial activities. We will therefore also affirm the petition's denial on this ground.

V. ADDITIONAL BLANKET L REQUIREMENTS

Finally, a petitioner must demonstrate that it and entities listed in a blanket L petition have: (1) obtained at least 10 L-1 petition approvals for managers, executives, or specialized knowledge professionals during the prior year; (2) U.S. subsidiaries or affiliates with combined annual sales of at least $25 million; or (3) a U.S. work force of at least 1,000 employees. 8 C.F.R. § 214.2(l)(4)(D).

The Petitioner claims that it and the listed entities have both U.S. subsidiaries or affiliates with combined sales of at least $25 million and a U.S. work force of more than 1,000 employees.

As the Director found, however, the Petitioner has not submitted sufficient evidence to corroborate its claims. The 2018 audited financial statements of the former owner indicate that the water treatment operations generated 521 million Swiss francs, or more than $581 million. See XE Currency Converter, https://www.xe.com/currencyconverter/ (last visited Feb. 23, 2021). But the financial statements do not establish that this amount includes at least $25 million in sales from U.S. subsidiaries or affiliates of the Petitioner and the other entities. Also, neither the financial statements nor the 2018 annual report of the former owner detail how many workers the water treatment operations employ in the United States. The record therefore does not establish that the Petitioner and the listed entities meet at least one of the requirements of 8 C.F.R. § 214.2(l)(4)(D).

VI. CONCLUSION

The Petitioner has not established eligibility for approval of a blanket L petition. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.