

Federal Court



Cour fédérale

Date: 20220923

**Dockets: IMM-7255-19
IMM-7257-19**

Citation: 2022 FC 1327

Ottawa, Ontario, September 23, 2022

PRESENT: The Honourable Mr. Justice Ahmed

Docket: IMM-7255-19

BETWEEN:

ZHENG DONG LI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

Docket: IMM-7257-19

AND BETWEEN:

LEJUN LIU

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Zhengdong Li (“Li”) and Lejun Liu (“Liu”), seek judicial review of the decisions of an immigration officer (the “Officer”) of Immigration, Refugees and Citizenship Canada (“IRCC”), dated November 18, 2019, denying the Applicants’ applications for permanent resident visas under the Start-Up Business Class (“SUBC”) program. The two applications for judicial review are based on the same submissions. Therefore, only one set of reasons is necessary.

[2] The Officer’s decisions are substantially the same, and raise the same issues for determination. The Officer found that the Applicants were not participating in the SUBC program primarily for the purpose of engaging in business activity, but rather in hopes of acquiring status or privilege under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (“IRPA”), pursuant to paragraph 89(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (“IRPR”).

[3] The Applicants submit that the Officer’s decisions are unreasonable and that the Officer breached their rights to procedural fairness.

[4] For the reasons that follow, I find the Officer’s decisions to be procedurally fair and reasonable. Accordingly, the applications for judicial review are dismissed.

II. **Facts**

A. *The Applicants*

[5] Mr. Li is a 34-year-old citizen of China. Mr. Liu is a 53-year-old citizen of China. Together, they applied for permanent resident visas under the SUBC program.

[6] In February 2018, Mr. Li visited Canada to explore business opportunities. Through an immigration consultant, Mr. Li was introduced to a business incubator, Spark Commercialization and Innovation Centre (“Spark Centre”), located in Oshawa, Ontario. At Spark Centre, Mr. Li met Ishaan Singla (“Singla”), a permanent resident of Canada and a client of Spark Centre.

[7] The Applicants state that, while benefiting from the resources at Spark Centre, Mr. Singla developed two different tracking devices with different properties: one is a medical device, incorporated as a business called “WeTraq”, and the other is a more general tracking device that relies on different technology than “WeTraq”, known as “TabGPS”. The Applicants allege that Mr. Singla had very limited resources to grow his business and was looking for investment and further business opportunities. The Applicants claim that they advised Mr. Singla that while they could not help him develop a market for WeTraq in China because of the long wait times and expenses associated with getting a medical device approved for the Chinese market, they were very interested in developing a market for TabGPS in China.

[8] The Applicants state that in May 2018, Mr. Singla travelled to China with representatives of Spark Centre in order to introduce WeTraQ to potential business partners. Mr. Liu allegedly met with Mr. Singla to discuss the development of a different tracking product. From this meeting, Mr. Singla began collaborating with Mr. Liu. The Applicants state that they both have professional experience to support the development of TabGPS, including skills in data analysis, manufacturing, marketing and supply-chain management experience in the Chinese context.

[9] In October 2018, the Applicants and Mr. Singla created the company “TabGPS”. Following this, they obtained a commitment certificate (“Commitment Certificate”) from Spark Centre, dated November 8, 2018.

[10] On December 11, 2018, the Applicants submitted applications for permanent resident visas under the SUBC program, along with the Commitment Certificate. The record also includes receipts, dated November 9, 2018, indicating that the Applicants each loaned Mr. Singla \$50,000 “to be applied against the subscription price of Class A common shares in the capital of TabGPS Inc.” The receipts for these loans state that the loans will not be refunded if the Applicants are refused permanent resident status in Canada.

B. Procedural Fairness Letter and Peer Review Panel

[11] During the initial evaluation of the applications, the Officer had concerns that the Applicants’ applications did not qualify under the SUBC. Specifically, the Officer was concerned that TabGPS had been created as a second “new” business to allow the Applicants to qualify under the SUBC for the purpose of obtaining permanent residence in Canada. In order to

address these concerns and to verify if Spark Centre had done its due diligence as part of the commitment process, the Officer requested a peer review on April 26, 2019. The Global Case Management System (“GCMS”) notes from April 26, 2019 read as follows:

As far as I can tell, WeTraq has only one founder and CEO: Mr Ishaan Singla TabGPS and WeTraq appear to have the same product and they appear to be targeting the same clientele. They are registered at the same location.

[...]

I have concerns that Mr Singla needed investors for WeTraq and the 2 applicants wanted to immigrate to Canada and had money to invest. The applicants could not just join the WeTraq team because, in order to qualify under the program, you need to START a new business, not join a business that has already been incorporated for over 2 years. I have concerns that TabGPS was created in order for the applicants to obtain PR status and will never operate, the real company is WeTraq.

I am concerned by the fact that Spark issued a [Commitment Certificate] to a company (TabGPS) that is in direct competition with another company that they had been supporting for over 2 years (WeTraq). This leads me to doubt that due diligence was done by Spark when they assessed the business TabGPS, the applicants related to TabGPS and the funds.

I am concerned by the fact that, under section 7, the Spark representative who completed the [Commitment Certificate] indicated that Spark was not related with anybody involved in TabGPS and had never done business with anybody involved in TabGPS. This appears to be a false statement since, at the time the [Commitment Certificate] was issued, Spark had been involved with Mr Ishaan Singla for over 2 years.

Peer review requested to verify if due diligence was done and if it is normal for a CABI to support, at the same time, 2 different businesses that are so similar and would be direct competitors.

Applicant advised that Peer review is requested.

[12] In a report dated August 6, 2019, the Peer Review Panel agreed with the Officer's concerns. Specifically, the Peer Review Panel found: the business plan provided was outdated and did not show that due diligence was done; no articles of incorporation or related corporate documents were provided; there is a lack of overall consistency regarding the target customers of the business; the application did not disclose how TabGPS will actually be licensing the IP from WeTraq and there is no viable alternative if the IP agreement falls through; and the designated entity had no insight into the projected financial statements or the company's corporate financing. Furthermore, the Peer Review Panel noted:

TabGPS and WeTraq are companies that have [the] same founder/CEO, same product, same IP, and are targeting same clientele. Such a high degree of direct competition between companies within the same incubator/accelerator is not normal course. [...] Under s.7 of the commitment certificate, the [designated entity] indicated they did not know anyone involved in TabGPS; this was confirmed to be a false statement since the founder and CEO is the same for TabGPS and WeTraq.

[13] On September 5, 2019, the Officer sent the Applicants a procedural fairness letter ("PFL"), which advised the Applicants of the results of the Peer Review, highlighted the Officer's concerns with their SUBC applications, and provided the Applicants with an opportunity to respond to the concerns. First, the PFL raised the Officer's concern that the Applicants are persons described under paragraph 89(b) of the *IRPR*. This was based on the existence of WeTraq, a company very similar to TabGPS that is supported by the same designated entity and owned by Mr. Singla, one of the founders of TabGPS; the receipt indicating that Mr. Singla had received a \$50,000 loan from each of the Applicants; and the

results of the Peer Review process. Second, the PFL raised the Officer's concern that the Applicants had engaged in misrepresentation under paragraph 40(1)(a) of the *IRPA*.

[14] On October 1, 2019, the Applicants' immigration consultant responded to the PFL. Included in the response was a letter from the President and CEO of Spark Centre responding to the allegations raised in the Peer Review report.

C. *Decision Under Review*

[15] The Applicants' response failed to alleviate the Officer's concerns. In two identical letters dated November 18, 2019, the Officer refused the Applicants' applications for permanent resident visas under the SUBC program. The Officer found that the Applicants are persons described under paragraph 89(b) of the *IRPR*, and that they were not participating in the program primarily for the purpose of engaging in business activity, but rather in hopes of acquiring a status or privilege under the *IRPA*.

[16] The Officer found that the Applicants' primary purpose when entering into a transaction with the designated entity, Spark Centre, was not to develop the TabGPS project described in the Commitment Certificate. The Officer agreed with the Peer Review Panel's finding that WeTraq and TabGPS have the same CEO, essentially the same product, with the same clientele and technology. The Officer noted that the scenario presented in the Applicants' reply to the PFL lacked credibility. The Applicants' reply noted how TabGPS and WeTraq are different companies with different markets and different technologies, yet the description of TabGPS

presented in the reply differed from the description of TabGPS in the Commitment Certificate initially submitted to IRCC.

[17] The Officer was also not satisfied with Spark Centre's explanation for why they had indicated on the Commitment Certificate that they had not been involved with anyone in the business before, given their support for Mr. Singla and WeTraq. Finally, the Officer noted the absence of supporting company documents such as market research and growth projects pre-dating the issuance of the Commitment Certificate that would demonstrate that TabGPS was developed as a distinct business from WeTraq from the onset.

III. **Preliminary Issue: Mr. Liu's Affidavit**

[18] The Respondent notes that in order to support his arguments, Mr. Li relies on explanations contained in the affidavit of Mr. Liu, which is attached as an exhibit to his own affidavit. The Respondent submits that this is inappropriate for two reasons: a) Mr. Liu gives third-hand evidence in his affidavit about Mr. Li, who was in a position to provide this evidence first-hand, and b) the affidavit of Mr. Lui appears to bolster the case by providing new details and explanations that were not before the Officer (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13-28). The Applicants submit that since they did not have the opportunity to actively participate in the Peer Review process, they should not be faulted for providing an explanation of the matters that would have been made explicit had they been given such an opportunity.

[19] While I agree that Mr. Li ought to have provided his evidence first-hand, the conjunctive nature of this case and the overlapping factual background in Mr. Li and Mr. Liu's situation is such that the description of events in both affidavits are quite similar. I do however agree with the Respondent that it is improper for the Applicants to bolster their case by relying on affidavit evidence that provides new details and explanations that were not before the Officer. I therefore give these additional explanations no weight, as they were not before the Officer and their inclusion in Mr. Liu's affidavit is improper.

IV. Legislative Scheme: The SUBC Program

[20] In March 2013, the Government of Canada launched the SUBC program, which provides a pathway to permanent residence for entrepreneurs seeking to launch their start-up businesses in Canada. Effective April 11, 2018, the *IRPR* were amended to incorporate the SUBC program, was incorporated into sections 98.01 to 98.13 of the *IRPR*. Subsection 98.01(1) of the *IRPR* stipulates:

Class

98.01 (1) For the purposes of subsection 12(2) of the Act, the start-up business class is prescribed as a class of persons who may become permanent residents on the basis of their ability to become economically established in Canada, who meet the requirements of subsection (2) and who intend to reside in a province other than Quebec.

Catégorie

98.01 (1) Pour l'application du paragraphe 12(2) de la Loi, la catégorie « démarrage d'entreprise » est une catégorie réglementaire de personnes qui peuvent devenir résidents permanents du fait de leur capacité à réussir leur établissement économique au Canada, qui satisfont aux exigences visées au paragraphe (2) et qui cherchent à s'établir dans une province autre que le Québec.

[21] In order to be considered a member of the SUBC, an applicant must fulfill the requirements outlined in subsection 98.01(2) of the *IRPR*. As recently summarized by my colleague Justice Little in *Phan v Canada (Citizenship and Immigration)*, 2022 FC 916, at paragraph 13:

Under *IRPR* subsection 98.01(2), a foreign national is a member of the Start-up Business Class if: (a) they have obtained a commitment made by one or more entities designated under the *IRPR* and that complies with certain other conditions; (b) they have attained a certain level of language proficiency; (c) they have a certain amount of transferable and available funds; and (d) they have started a qualifying business within the meaning of section 98.06.

[22] Subsection 98.04(1) of *IRPR* states that a commitment, consisting of an agreement between the designated entity and the applicant, confirms that an applicant's business is currently participating in or has been accepted into a designated entity program. Under subsection 98.08(1), an officer may refuse a permanent resident visa if they are not satisfied that the designated entity assessed the applicant and the applicant's business in a manner consistent with industry standards:

Assessment of commitment

98.08 (1) If the officer is not satisfied that the entity assessed the applicant and the applicant's business in a manner consistent with industry standards or is not satisfied that the terms of the commitment are consistent with industry standards, the officer may refuse to issue the permanent resident visa.

Évaluation de l'engagement

98.08 (1) S'il n'est pas convaincu que l'entité a évalué le demandeur et son entreprise conformément aux normes de l'industrie ou que les modalités de l'engagement sont conformes aux normes de l'industrie, l'agent peut refuser de délivrer le visa de résident permanent.

[23] Pursuant to section 98.09, an officer may request that a commitment be independently assessed by a peer review panel. This type of request may be made if the officer is of the opinion that an independent assessment would assist in the application process.

[24] Under paragraph 89(b) of the *IRPR*, an applicant in the SUBC must satisfy the officer that their participation in the SUBC program was not primarily for the purpose of acquiring a status or privilege under the *IRPA*:

Artificial transactions

89 For the purposes of this Division, an applicant in the self-employed persons class or an applicant in the start-up business class is not considered to have met the applicable requirements of this Division if the fulfillment of those requirements is based on one or more transactions that were entered into primarily for the purpose of acquiring a status or privilege under the Act rather than

[...]

(b) in the case of an applicant in the start-up business class, for the purpose of engaging in the business activity for which a commitment referred to in paragraph 98.01(2)(a) was intended.

Opérations factices

89 Pour l'application de la présente section, ne satisfait aux exigences applicables de la présente section le demandeur au titre de la catégorie de travailleur autonome ou de la catégorie « démarrage d'entreprise » qui, pour s'y conformer, s'est livré à des opérations visant principalement à acquérir un statut ou un privilège sous le régime de la Loi plutôt que :

[...]

b) s'agissant d'un demandeur au titre de la catégorie « démarrage d'entreprise », dans le but d'exploiter l'entreprise envers laquelle a été pris un engagement visé à l'alinéa 98.01(2)a).

V. **Issues and Standard of Review**

[25] This application for judicial review raises the following issues:

A. *Whether there was a breach of procedural fairness.*

B. *Whether the Officer's decisions are reasonable.*

[26] The Applicants make no submissions on the standard of review. The Respondent submits that the correctness standard applies to the issue of procedural fairness, and the reasonableness standard applies to the Officer's decisions. I agree. I find that the issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 (“*Canadian Pacific Railway Company*”) at paras 37-56; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). The merits of the Officer's decisions are to be reviewed on the reasonableness standard, in accordance with the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paragraphs 16-17.

[27] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13; 75; 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-

maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[28] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156 at para 36).

[29] Correctness, in contrast, is a non-deferential standard of review. The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraphs 21-28 (*Canadian Pacific Railway Company* at para 54).

VI. Analysis

A. *Procedural Fairness*

[30] The Applicants’ submissions challenge the fairness of the decision-making process. The Applicants first submit that the scope of the Peer Review Panel’s review process was ambiguous

and deviates from the norms of procedural fairness. In particular, the Peer Review Panel both reviewed whether Spark Centre's due diligence complied with the SUBC requirements, and also purported to determine the worthiness of the application for permanent residence.

[31] The Applicants further argue that the peer review process was flawed because the Applicants were not given a meaningful opportunity to participate or provide their input in the process, given the 'hearing-like' procedure that was followed. Specifically, the Applicants were not invited to participate in a teleconference on August 1, 2019, which was attended by the Peer Review Panel and representatives of Spark Centre. The Peer Review Panel's findings then significantly affected the Officer's assessment of the merits of the SUBC application – leading to errors that could have been avoided had the Applicants been able to participate in the process.

[32] The Respondent maintains that the duty of fairness was met in the circumstances of this case. The Applicants were provided with all the relevant information, advised of the Officer's concerns with their SUBC applications through the PFL, and given an opportunity to respond. The Respondent submits that the Applicants' arguments misconstrue the purpose of the peer review process and the role of the designated entity (Spark Centre) under subsection 98.01(1) of the *IRPR*. The peer review process is one of many ways for officers to better understand SUBC applications and probe concerns. The Peer Review Panel was never tasked with determining the worthiness of the SUBC applications, a decision that rested with the Officer.

[33] In my view, the process of reviewing the Applicants' SUBC applications was fair. The Officer raised concerns with the SUBC applications in the PFL letter, the Applicants were

provided with an opportunity to respond to the Officer's concerns, and they knew the case to be met. In the context of visa applications, the level of procedural fairness owed to a visa applicant is on the lower end of the spectrum (*Bui v Canada (Citizenship and Immigration)*, 2019 FC 440 (“*Bui*”) at para 26; *Chiau v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 297 (FCA) at para 41). The Applicants had a duty to establish their entitlement to a visa under the SUBC.

[34] I also disagree with the Applicants' arguments regarding the Peer Review Panel. The purpose of the peer review process is not ambiguous: the Peer Review Panel was tasked with determining whether due diligence was done by Spark Centre in its assessment of TabGPS, not with determining the worthiness of the SUBC applications. This was clearly noted by the Officer in the peer review request form dated November 8, 2018:

Please verify if due diligence was done by Spark when they assessed TabGPS, the applicants related to TabGPS and the funds. Please advise if it is normal for a [business incubator] to support, at the same time, 2 different businesses that are so similar and would be direct competitors. Thank you.

[35] The decision regarding whether to grant the Applicants' SUBC applications rested with the Officer. As stipulated in subsection 98.09(4) of the *IRPR*, “An officer who requests an independent assessment is not bound by it”. While an officer may glean insights from the peer review process, they are not bound by its results. In *Bui* at paragraph 33, this Court affirms that the decision whether to grant a visa application lays with the officer:

Even if the peer review process was flawed, ultimately, the decision to grant the visa application or not lay with the Officer. Hence, the Officer was under a duty, depending on the circumstances, to let the Applicant know of their concerns. As the Officer's concerns arose from a requirement under the *Ministerial Instructions*, namely that an applicant must not enter into a commitment for the purpose of obtaining a status or privilege under the Act (*Ministerial Instructions* s 2(5)), one could argue that the Officer was not obliged to put this to the Applicant. However, in the present case, the Officer did raise this concern with the Applicant.

[36] In my view, the Applicants' arguments amount to a disagreement with the process that is clearly laid out in the legislative framework governing the SUBC program. I do not find that there was a breach of procedural fairness in this case.

B. *Reasonableness*

[37] The Applicants submit that the Officer misapprehended the materials in their SUBC applications and ignored much of the evidence they submitted in their reply to the PFL to address the Officer's concerns. The Applicants also argue that the Officer erred in their application of the statutory provisions governing the SUBC. Specifically, the Applicants take issue with the Officer's findings that in order to qualify as a member of the SUBC, it is necessary to start a business, not to join an existing business. The Officer further erred in noting that it is not normal industry standard for a business incubator to support two companies who would be direct competitors. The Applicants argue that the evolution of WeTraq and TabGPS reflects the kind of "synergy" and "nurturing" that is the essence of a business incubator, and that the Officer's decisions fail to appreciate the evidence demonstrating that WeTraq and TabGPS are not direct competitors – they are different products, with different technologies, targeting different

clientele. Additionally, the Applicants argue that the Officer faulted them for actions that were taken by Spark Centre, in particular the inconsistencies between the Applicants' application and the Commitment Certificate.

[38] The Respondent maintains that the Applicants' arguments confuse the process, ignore central aspects of the Officer's decisions and fail to demonstrate how the decisions are unreasonable. The Respondent notes that Spark Centre is not the subject of the Officer's decisions and the Applicants' arguments about Spark Centre's lack of due diligence misconstrue what occurred. Next, the Respondent takes issue with the Applicants' interpretation of the statute governing the SUBC program – specifically, the Applicants' argument that an applicant qualifies if they invest in or join an already existing business. The Respondent notes that the very name of the SUBC program stresses that the business must be a start-up.

[39] I am not convinced by the Applicants' arguments. Paragraph 98.01(2)(a) of the *IRPR* clearly indicates that a foreign national is considered a member of the SUBC if “[...] they have obtained a commitment that is made by one or more entities designated under subsection 98.03(1), that is less than six months old on the date on which their application for a permanent resident visa is made and that meets the requirements of section 98.04”. While the Applicants' arguments seem to suggest that the Officer erred in their interpretation of the statute – I do not find this to be the case. The Officer's GCMS notes accompanying both decisions clearly state:

The applicant could not just join the WeTraq team because, in order to qualify as a member of the Start Up Business Class, you need to START a new business, not just join a business that has already been incorporated for a few years. I have concerns that

TabGPS was created in order for the applicant to obtain permanent resident status in Canada [...]

[40] Furthermore, while the Applicants make submissions regarding the potential success or viability of WeTraq and TabGPS, this is not the test under paragraph 89(b) of the *IRPR*, which required the Applicants to satisfy the Officer that their participation in the SUBC program was not primarily for the purpose of acquiring a status or privilege under the *IRPA*. The Applicants' description of the evolution of their business does not support their assertion that the Officer erred in their evaluation of the SUBC applications. In fact, I find it was reasonable of the Officer to note that the description of TabGPS in the Applicants' initial application was the same as the description of WeTraq, yet this description shifted in the Applicants' response to the PFL. The Officer's decision states:

The reply states that TabGPS and WeTraq are two different companies using different technologies and targeting different markets. TabGPS will enable its clients to track their pets and possessions where WeTraq enables its clients to track their loved ones that have medical issues.

According to the reply, WeTraq's CEO, Mr. Ishaan Singla, realized that there was a secondary business opportunity in tracking pets and assets. Mr. Singla then decided to "create a second company with other founders that could take a lead role in building the new entity."

I do not find this explanation credible for multiple reasons. The first and most important reason is that the description of TabGPS presented in the reply (TabGPS track your pets/assets) is different from the description of TabGPS in the commitment certificate. The commitment certificate that was issued in support of TabGPS and submitted to IRCC describes TabGPS in these words: "TabGPS allows you to track your loved ones anytime & anywhere across the globe, specifically people with autism/dementia." So the commitment certificate that was issued to support TabGPS bears the description of WeTraq. No explanation was offered to this

officer as to why the commitment certificate issued in support of TabGPS would describe WeTraq.

If the creation of TabGPS truly happened according to the scenario described in the reply, then I would expect Section 7 of the commitment certificate to reflect this scenario and yet it does not. The commitment certificate makes no mention of WeTraq nor of the relationship between WeTraq and Spark nor of the relationship between Mr Ishaan Singla and either WeTraq or Spark.

[41] I find it was reasonable of the Officer to note that if the creation of TabGPS truly occurred in accordance with the scenario described by the Applicants in their response to the PFL, then the Commitment Certificate ought to reflect this scenario and it does not. In fact, as correctly noted by the Officer, the Commitment Certificate does not mention WeTraq at all, nor does it mention the relationship between WeTraq and Spark Centre. It was also reasonable of the Officer to remark on a lack of standard business documents pre-dating the issuance of the Commitment Certificate, such as presentations, growth projections and market research. As rightly noted by the Officer, such documents “could have been submitted to demonstrate that TabGPS was developed as a business project distinct from WeTraq from the beginning.” In *Tiben v Canada (Citizenship and Immigration)*, 2020 FC 965 at paragraph 31, this Court stresses that the onus is on the applicant applying for a permanent resident visa to satisfy an officer that they meet the visa requirements:

The onus is on visa applicants to put together applications that are convincing, to anticipate adverse inferences contained in the evidence and address them, and to demonstrate that they have a right to enter Canada. [...]

[42] The focus of a judicial review must be on the decision actually made, including the decision-maker's reasoning process and the justification offered for the decision (*Vavilov* at para 83). The Applicants' submissions fixate on the peer review process, the Commitment Certificate, and the PFL response, yet do not account for the totality of the Officer's reasons and concerns. I find that the Applicants' arguments amount to a disagreement with the Officer's weighing of the evidence. Based on the evidence that was before the Officer and the information provided by the Applicants, I find that the Officer reached a reasonable conclusion that the Applicants failed to alleviate concerns regarding the primary purpose of their SUBC applications. I also find that the Applicants have engaged in improper attempts to bolster the record and provide additional explanations through the affidavit of Mr. Liu, as well as in their written submissions.

VII. **Conclusion**

[43] For the reasons above, I find the Officer's decisions to be procedurally fair and reasonable. I therefore dismiss these applications for judicial review. No questions for certification were raised, and I agree that none arise.

JUDGMENT in IMM-7255-19 and IMM-7257-19

THIS COURT'S JUDGMENT is that:

1. The applications for judicial review in IMM-7255-19 and IMM-7257-19 are dismissed and a copy of these Reasons shall be placed in each Court file.
2. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: IMM-7255-19
IMM-7257-19

STYLE OF CAUSE: ZHENG DONG LI v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

LEJUN LIU v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: JULY 7, 2022

JUDGMENT AND REASONS: AHMED J.

DATED: SEPTEMBER 23, 2022

APPEARANCES:

Lisa Winter-Card FOR THE APPLICANT

Charles Jubenville FOR THE RESPONDENT

SOLICITORS OF RECORD:

Czuma Ritter FOR THE APPLICANT
Barristers and Solicitors
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario