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File: LIN 05 034 51802 Office: NEBRASKA SERVICE CENTER Date: OCT 24 2006

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

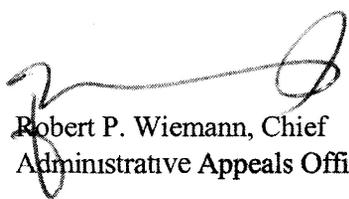
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

IN 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, Nebraska 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 sustained.

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary as an L-1B nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a global manufacturer of industrial automation systems. It claims to be the parent company of [REDACTED] located in Cambridge, Ontario, Canada. The petitioner seeks to employ the beneficiary as a learning and development specialist until April 15, 2007. The petitioner has employed the beneficiary in this position in L-1B status since April 16, 2004.¹

The director denied the petition concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that the position offered requires an individual with specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion, and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner disputes the director's decision and asserts that the beneficiary does, in fact, possess specialized knowledge regarding the petitioner's employee training programs, and that the U.S. assignment requires the beneficiary's specific specialized knowledge. The petitioner submits a brief and additional evidence in support of the appeal.

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.

¹ The record shows that the beneficiary, a visa-exempt Canadian citizen, submitted a Form I-129, Petition for a Nonimmigrant Worker, requesting L-1B classification at a Class A port of entry on April 16, 2004, pursuant to 8 C.F.R. § 214.2(l)(17)(i). She was admitted to the United States in L-1B classification and issued a Form I-94, Departure Record, valid until April 15, 2007. It appears that the I-129 petition was either lost or never properly forwarded to the Nebraska Service Center for formal adjudication, as there is no record of the first petition in U.S. Citizenship and Immigration Services' (USCIS) electronic records. The petitioner filed the instant petition, requesting the same employment dates, in order to obtain a Form I-797 Approval Notice.

- (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.

The nonimmigrant petition was filed on November 17, 2004. In a letter dated November 19, 2004, the petitioner provided a detailed description of the beneficiary's previous position as "Human Resources Representative – Training and Communications," with the petitioner's Canadian affiliate. The petitioner also described the beneficiary's specialized knowledge in a thorough manner. Finally, the petitioner provided the following description of the beneficiary's current U.S. position of Learning and Development Specialist:

In this capacity, [the beneficiary] is responsible for proving [sic] key support and guidance to the company's Global Learning and Development and business unit HR functions in the development and implementation of learning and organizational development initiatives, including change management, survey implementation, e-Learning programs, educational assistance and career development for the company's employees.

[The beneficiary] draws upon her specialized knowledge and expertise to design, develop, implement, deliver, and evaluate highly-specialized training and curriculum development programs for [company] employees. She is responsible for project management of the company's needs assessment surveys, including data management, reporting and feedback processes. She facilitates and co-facilitates [the petitioner's] core skills programming, including Leading for Results, Career Development, Financial Management, and other programs as deemed appropriate. In addition, [the beneficiary] interfaces with the company's business units, Human Resource staff, and external consultants on competency development projects and is engaged in data gathering and analysis, focus groups and interviews.

The petitioner further emphasized that the beneficiary is required to utilize her previous experience acquired with the Canadian company to identify the training and developmental needs of the company's business units and employees and to develop strategies plan and programs which address the needs identified. The petitioner stated that the U.S. position specifically requires "specialized knowledge concerning the company's current training strategies and program, including the process by which the company identifies and assesses the training and developmental needs of its business units and employees, as well as the manner in which the company identifies, selects, develops, and customizes and delivers the required training programs." The petitioner indicated that the position also requires proprietary knowledge related to the company's course subjects, including curriculum covering the company's products, techniques and processes.

On November 23, 2004, the director advised the petitioner that the evidence of record was insufficient to establish that the knowledge possesses by the beneficiary is specialized. The director observed that it appeared the duties to be performed appeared to be "general human resources functions commonly performed by individuals throughout the industry." Accordingly, the director instructed the petitioner to provide evidence that the beneficiary's knowledge is advanced, noteworthy or distinguished by some unusual quality and not generally known by practitioners in the field. Specifically, the director requested: (1) a complete, detailed description of the duties performed by the beneficiary in her previous foreign and current U.S. positions, including the percentage of time allocated to each job duty on a weekly basis; (2) evidence to distinguish the knowledge held by the beneficiary from the elementary or basic knowledge possessed by others who are similarly employed within the same occupation, if the petitioner contends that the beneficiary possesses an advanced level of knowledge; (3) evidence of any company-specific vocational, technical, and/or professional development courses attended by the beneficiary, which are related to the claimed specialized knowledge, including details regarding the length of each course and course content; and (4) if the beneficiary acquired specialized knowledge only through practical employment experience, a detailed description of how the beneficiary's training and/or work experience differs from the training and experience an individual would receive whom is similarly employed within the industry.

In a response dated December 10, 2004, the petitioner stated that the "primary focus" of the U.S. position is to identify the needs of the company's global business units and to design, develop, customize, implement and evaluate learning and development strategies, plans and programs for the beneficiary of employees on a global basis. The petitioner stated that the position is not a human resources generalist position, but rather is a "unique assignment requiring an in-depth understanding and special knowledge of the company's business

units which operate on an international level and of the manner in which [the company] designs, develops, customizes, implements, delivers and evaluates its internal learning and development programs."

The petitioner further emphasized that the beneficiary had been responsible for "a number of key projects in this particular area" while employed by the Canadian entity, which had resulted in plans and programs that were subsequently implemented by the company on an international basis. The petitioner stated that the beneficiary thus possesses knowledge that would not be readily available in the United States and "could only be taught over an extensive period of time by [the beneficiary]." The petitioner asserted that the beneficiary was chosen for the U.S. assignment because she was the only employee within the petitioner's global organization who was qualified for the position. The petitioner explained that while most individuals in the employee educational field possess certain skills sets and knowledge relevant to the position, the beneficiary possesses "critical knowledge and experience covering all of the required areas, including [the company's] business unit needs, learning systems, consulting activities, up-front business and employees needs assessment, program strategy analysis and development, program design, program delivery, e-learning initiatives, program evaluation, outside vendor management, and others." The petitioner further stated that the beneficiary has "extensive proprietary knowledge" of the company's learning and development strategies, plans and programs which are not used by other companies, and again emphasized that even within the petitioner's organization, no other employees possesses the beneficiary's "unique knowledge and expertise."

The petitioner further indicated that the beneficiary possesses unique knowledge in that she "has been responsible for developing the programs being used by [the company] on an international basis." The petitioner stated that its group employs 21,500 employees in more than 80 countries, and that the beneficiary is the only employee serving in the capacity of learning and development specialist with responsibility for implementing learning and organizational development programs for the company's employees on a global basis. The petitioner noted that while employed with the foreign entity, the beneficiary created training modules for the Canadian operations which were adopted for use in the United States because "no one locally in the United States could build them."

The petitioner provided the requested detailed description of the beneficiary's duties within both the foreign and U.S. organization, as well as summaries of specific projects on which the beneficiary had worked while employed by the Canadian subsidiary, and the applicable knowledge gained from each project or assignment. Specifically, the petitioner noted the beneficiary's role in implementing a learning center, performing cross-business needs performance analysis, designing a training catalogue, managing employee communications with respect to the training function, and consulting with team managers across business units. The petitioner placed particular emphasis on the beneficiary's input and leadership role on cross-business and cross-regional teams including the Global Learning & Development Council, Global Employee Communications Council, Performance Management, Intranet Council and Leadership Programs, noting that her participation in these teams had given her exposure to global operations and had made her an important resource for the U.S. company even during her employment in Canada.

In explaining the significance of the beneficiary's current and previous assignments and projects, the petitioner further stated:

With a specialized and focus on training & development in a cross-business unit function [the beneficiary] brings a skill that no other person in [the company] possesses. Currently in the USA there are no other training professionals who also work cross-business and have training as their core function. Most people in the USA are primarily strategy and planning for all of HR or generalists. They may also take pieces of the training function but do not specialize in it. The only exception to this is the Manager of Global Learning & Development to whom [the beneficiary] would be reporting. [The beneficiary] also posses [sic] information on [the company's] policies, procedures, organizational structure and global practices that would take years to acquire and understand for a person new to the organization and / or position.

The petitioner also noted the beneficiary's training in and contributions to the company's newly-implemented business framework, as follows:

The Way Forward is [the company's] business framework and is proprietary and unique to [the company]. [The beneficiary] was part of a unique rollout coaching team (5 people) who were trained in the deep details of the framework and how to coach employees to the vision and values. The other 4 members of the coaching team reside in the US and are all in the communications function. [The beneficiary] on the other hand is the only person in a training & development function who was trained to coach this. There is now a new initiative underway to further drive the values of the framework to all business globally and it is being spearheaded out of the group [the beneficiary] will work from in the US. Her participation as the specialist role to this project is invaluable.

Finally, the petitioner provided a copy of the beneficiary's educational and professional training certificates, which confirmed her completion of the following courses and programs: "Emotional Competence Inventory" (The Hay Group), "Profile Certification Workshop" (Personnel Decisions International), "Instructional Design for New Designers Workshop" (Langevin Learning Services, Inc.), "Teaching & Training Adults Program" (Durham College), and "Professional Certificate in Communication and Public Relations" (The University of Western Ontario); and a bachelor of arts degree in sociology from the University of Guelph.

On December 23, 2004, the director denied the petition concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that the prospective position requires an individual with specialized knowledge. The director noted that while it is understandable that the petitioner would wish to transfer personnel to the United States who are familiar with the company's products, processes and procedures, the evidence of record did not sufficiently establish that the beneficiary's knowledge is uncommon, noteworthy or distinguished by some unusual quality that is not generally known by practitioners who are similarly educated and/or employed in the beneficiary's field, or that the foreign position or U.S. position actually require a person with "specialized knowledge" as that term is defined in the regulations.

On appeal, the petitioner asserts that the director's conclusions were erroneous based on the evidence submitted in support of the petition and in response to the request for evidence. The petitioner asserts that while employed by the Canadian subsidiary, the beneficiary "gained specialized knowledge in the manner in which [the company] identifies and assesses the highly-particularized developmental and training needs of its

international business units and employees, and in the manner in which the company designs, develops, customizes and implements and assesses its proprietary training strategies, plans and programs to address those needs on an international basis." The petitioner contends that the beneficiary "played an instrumental and unique role" on a number of projects for the foreign entity "during a time of significant change for the [corporate] organization as a whole" and claims that the strategies, plans and programs the beneficiary developed and the knowledge she acquired of the company, its business units and employees, constitute the specialized knowledge which is required by the U.S. assignment. The petitioner stresses that the beneficiary "is a key participant and leaders in a number of critical learning and development projects which will impact virtually every employee within the global organization."

In support of the appeal, the petitioner submits letters from six human resources managers and executives within the U.S. and Canadian companies who attest to the beneficiary knowledge, skills and experience, and the need for her services in the United States. As these letters are part of the record, their content will not be discussed in detail here. The petitioner reiterates the duties the beneficiary performed with the foreign entity and adds that the beneficiary joined the company during a "period of unprecedented change" and as a result acquired specialized knowledge that was "unique and intensive." The petitioner emphasizes that the experience the beneficiary gained working with the smaller Canadian operations can be applied within the U.S. structure and on a global basis.

The petitioner asserts that the director placed undue emphasis on the beneficiary's education and experience leading up to her employment with the Canadian entity, noting that the position abroad does not have to require the beneficiary's specialized knowledge as a prerequisite to employment with the foreign entity. The petitioner states that the beneficiary acquired knowledge that is truly uncommon and extremely valuable while she was employed with the foreign entity. In a letter dated January 10, 2005, the foreign entity's Human Resources' manager further expands upon the beneficiary's specialized knowledge as follows:

I saw [the beneficiary] leverage her skills to develop a knowledge and depth of experience which is critically valuable to our business. I don't believe this knowledge base could be replicated outside of the unique timing of her coming on board and the amount of broad, organization wide, strategic change which was being introduced at that point.

* * *

[The beneficiary] was a critical player in the development, the training and the communication of [the Global Performance Management system] and was instrumental in successfully integrating it into our organization.

In Canada, the beneficiary had the opportunity to work closely with both salary and hourly employee populations and across a representation of all our matrixed and complex business units. The Canadian operation is very much a micro-sized clone of the U.S. operations, with all the same complexities of a matrixed, multi-functioned organization, just on a much smaller scale. [The beneficiary] was able to integrate the principles of Performance Management into each business unit's culture with success. . . . [The beneficiary's] proven

successes, achieved by leveraging her professional skills with her acquired unique company knowledge, gained at a critical point in the company's evolution, will now be able to be deployed against the vast U.S. organization and further to our global areas of growth in Asia and Latin America.

The petitioner stresses that the organization is "embarking upon a multimillion dollar global business process transformation where change management and organization development skills will be critical for success." The petitioner notes that the beneficiary has been selected as a member of the Personal Leadership Effectiveness Training Program which will involve the design and development of training programs for 6,000 employees worldwide. Reciting from an attached letter from the petitioner's Manager of Global Learning and Development, the petitioner asserts that "no other person currently on [the company's] staff possesses the broad understanding of the competencies and skills required to adequately execute this role."

On review, the petitioner has demonstrated that the beneficiary possesses "specialized knowledge" as defined in § 214.2(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), and the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In examining the specialized knowledge capacity of the beneficiary, the AAO will look to the petitioner's description of the job duties. See 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed description of the services to be performed sufficient to establish specialized knowledge. *Id.* It is also appropriate for the AAO to look beyond the stated job duties and consider the importance of the beneficiary's knowledge of the business's product or service, management operations, or decision-making process. *Matter of Colley*, 18 I&N Dec. 117, 120 (Comm. 1981) (citing *Matter of Raulin*, 13 I&N Dec. 618 (R.C. 1970) and *Matter of LeBlanc*, 13 I&N Dec. 816 (R.C. 1971)).² As stated by the Commissioner in *Matter of Penner*, 18 I&N Dec. 49, 52 (Comm. 1982), when considering whether the beneficiaries possessed specialized knowledge, "the *LeBlanc* and *Raulin* decisions did not find that the occupations inherently qualified the beneficiaries for the classifications sought." Rather, the beneficiaries were considered to have unusual duties, skills, or knowledge beyond that of a skilled worker. *Id.* The Commissioner also provided the following clarification:

A distinction can be made between a person whose skills and knowledge enable him or her to produce a product through physical or skilled labor and the person who is employed primarily

² Although the cited precedents pre-date the current statutory definition of "specialized knowledge," the AAO finds them instructive. Other than deleting the former requirement that specialized knowledge had to be "proprietary," the 1990 Act did not significantly alter the definition of "specialized knowledge" from the prior INS interpretation of the term. The 1990 Committee Report does not reject, criticize, or even refer to any specific INS regulation or precedent decision interpreting the term. The Committee Report simply states that the Committee was recommending a statutory definition because of "[v]arying [*i.e.*, not specifically incorrect] interpretations by INS," H.R. Rep. No. 101-723(I), at 69, 1990 U.S.C.C.A.N. at 6749. Beyond that, the Committee Report simply restates the tautology that became section 214(c)(2)(B) of the Act. *Id.* The AAO concludes, therefore, the cited cases, as well as *Matter of Penner*, remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification.

for his ability to carry out a key process or function which is important or essential to the business' operation.

Id. at 53. The petitioner in the present matter provided an ample description of the beneficiary's previous and current U.S. job duties to establish employment in a specialized knowledge capacity. Specifically, the record demonstrates that the beneficiary "possesses an advanced level of knowledge . . . in the organization's processes and procedures." The specific job duties identified by the petitioner indicate that the beneficiary has been and will be responsible for designing, developing, implementing, delivering, communicating and evaluating employee training and development strategies across business units within the organization, currently on a global basis. Additionally, and more importantly, the petitioner explained that the beneficiary played a critical role in developing the processes currently used by the organization to assess, develop, implement and communicate its training and development programs, specifically the "Global Performance Management System," as a result of having joined the foreign entity during a time in which such processes were being developed and integrated into the company.

The beneficiary's advanced knowledge of the petitioning company's internal business framework, gained as a result of training provided to only a few employees, her role in the integration of the company's Global Performance Management System in Canada, as well as her application of this knowledge in the U.S. entity and her current responsibility for implementing these processes globally from the U.S. headquarters, qualify her for the classification sought. As explained by the petitioner, the beneficiary joined the foreign entity during a time when the organization was undergoing a change in corporate vision and implementing a "Performance Driven Culture." Therefore, although the beneficiary's tenure with the foreign entity was not lengthy, the record establishes that the knowledge she gained during that time can be considered "advanced" because she was directly involved in the development of new processes, while acquiring a breadth and depth of knowledge of the organization as a result of holding a position which required extensive cross-business needs assessment, consulting and communication.

Applying the distinction provided in *Matter of Penner*, the beneficiary's knowledge is not needed, or in fact being used, in the U.S. entity solely for the petitioner's production of a product or provision of a service, in that she is not simply performing a general human resources function. *See id.* Nor is the beneficiary deemed to have specialized knowledge solely because of her job responsibilities, which include designing surveys and courses, and other materials used in training and assessment of the petitioner's employees and overall training needs. Rather, it is the beneficiary's advanced knowledge of the petitioner's Global Performance Management processes and related global learning and development strategies, and the significance of these processes to the company's current efforts to implement an integrated training plan across all of its business units on a worldwide basis which constitutes the claimed specialized knowledge. The evidence submitted is sufficient to establish that the beneficiary's specific knowledge is needed to play a key leadership role in the standardization and global integration of the company's employee development programs. The record therefore demonstrates that the beneficiary is clearly "employed primarily for [her] ability to carry out a key process . . . which is important [and] essential to the business' operation." *Id.*

Additionally, consistent with legislative history and prior case law, the beneficiary is considered a "key" employee of both the foreign and U.S. entities. The statutory definition of specialized knowledge requires the

AAO to make comparisons in order to determine what constitutes specialized knowledge. The term "specialized knowledge" is not an absolute concept and cannot be clearly defined. As observed in *1756, Inc. v. Attorney General*, "[s]imply put, specialized knowledge is a relative . . . idea which cannot have a plain meaning." 745 F. Supp. 9, 15 (D.D.C. 1990). The Congressional record specifically states that the L-1 category was intended for "key personnel." See generally, H.R. REP. No. 91-851, 1970 U.S.C.C.A.N. 2750. The term "key personnel" denotes a position within the petitioning company that is "of crucial importance." *Webster's II New College Dictionary* 605 (Houghton Mifflin Co. 2001). In general, all employees can reasonably be considered "important" to a petitioner's enterprise. If an employee did not contribute to the overall economic success of an enterprise, there would be no rational economic reason to employ that person. An employee of "crucial importance" or "key personnel" must rise above the level of the petitioner's average employee. Accordingly, based on the definition of "specialized knowledge" and the Congressional record related to that term, the AAO must make comparisons not only between the claimed specialized knowledge employee and the general labor market, but also between that employee and the remainder of the petitioner's workforce.

In *Matter of Penner*, the Commissioner discussed the legislative intent behind the creation of the specialized knowledge category. 18 I&N Dec. 49 (Comm. 1982). The decision noted that the 1970 House Report, H.R. No. 91-851, stated that the number of admissions under the L-1 classification "will not be large" and that "[t]he class of persons eligible for such nonimmigrant visas is narrowly drawn and will be carefully regulated by the Immigration and Naturalization Service." *Id.* at 51. The decision noted that the House Report was silent on the subject of specialized knowledge, but that during the course of the sub-committee hearings on the bill, the Chairman specifically questioned witnesses on the level of skill necessary to qualify under the proposed "L" category. In response to the Chairman's questions, various witnesses responded that they understood the legislation would allow "high-level people," "experts," individuals with "unique" skills, and that it would not include "lower categories" of workers or "skilled craft workers." *Matter of Penner, id.* at 50 (citing H.R. Subcomm. No. 1 of the Jud. Comm., *Immigration Act of 1970: Hearings on H.R. 445*, 91st Cong. 210, 218, 223, 240, 248 (November 12, 1969)).

Reviewing the Congressional record, the Commissioner concluded in *Matter of Penner* that an expansive reading of the specialized knowledge provision, such that it would include skilled workers and technicians, is not warranted. The Commissioner emphasized that the specialized knowledge worker classification was not intended for "all employees with any level of specialized knowledge." *Matter of Penner*, 18 I&N Dec. at 53. Or, as noted in *Matter of Colley*, "[m]ost employees today are specialists and have been trained and given specialized knowledge. However, in view of the House Report, it can not be concluded that all employees with specialized knowledge or performing highly technical duties are eligible for classification as intracompany transferees." 18 I&N Dec. at 119. According to *Matter of Penner*, "[s]uch a conclusion would permit extremely large numbers of persons to qualify for the 'L-1' visa" rather than the "key personnel" that Congress specifically intended. 18 I&N Dec. at 53; see also, *1756, Inc.*, 745 F. Supp. at 15 (concluding that Congress did not intend for the specialized knowledge capacity to extend to all employees with specialized knowledge, but rather to "key personnel" and "executives.")

It is insufficient to simply state that the beneficiary in the present matter possesses specialized knowledge as a result of developing and/or making significant contributions to the development of company processes. Here, the petitioner demonstrated the beneficiary's "key" position through supplemental evidence, particularly the

summary of the beneficiary's specific project experience, and the testimony of six managerial and executive staff, submitted on appeal, which clarify the scope of the beneficiary's knowledge and the value of her contributions to the organization. The submitted evidence demonstrates that the beneficiary joined the foreign entity with a combination of professional skills in training and development and employee communications not already found within the organization, and during a time in which such skills were needed to efficiently develop, implement and communicate new employee development programs across all areas of a large, complex organization. These circumstances resulted in the beneficiary receiving unique assignments and opportunities within the foreign entity, developing relationships and knowledge across business units that were previously uncommon within the company's human resources function, and, most notably, the beneficiary's development of strategies and methods for the Canadian which are being adopted by the U.S. organization and implemented globally.

On appeal, the beneficiary's current manager emphasizes her status as a key member of a team organized to implement a Personal Leadership Effectiveness Training Program, a \$500,000 project which targets 6,000 employees worldwide; the beneficiary's role as a project manager in a \$750,000 project to implement an enterprise wide learning management system, for which she will represent Human Resources functions on a company-wide basis; and finally, the beneficiary's role in expanding the company's leadership development, competency assessment and other talent development programs across the company's global organization, an ongoing \$2 million investment. The beneficiary's manager emphasizes that she is one of three individuals in a global organization of 21,500 employees who is qualified to execute the program. Furthermore, in her role with the foreign entity, the beneficiary held key assignments in addition to her role in implementing the Global Performance Management system, including responsibility for providing peer coaching to other members of the Canadian human resources team, receiving intensive training in the company's business framework not provided to any other human resources employee, and serving as a consultant to more than 70 managers for training and development issues.

The combination of the beneficiary's professional training and experience, her specialized knowledge of the petitioner's employee training and development requirements, the application of her knowledge to the development of key processes for the company, and her special assignments abroad and in the United States, establishes the beneficiary as a key employee with "unique" knowledge. The petitioner has established that the beneficiary has special or advanced knowledge compared to that of the petitioner's current employees, and is more valuable to the operations of the foreign and U.S. entities than an average employee.

The legislative history for the term "specialized knowledge" provides ample support for a restrictive interpretation of the term. In the present matter, the petitioner has demonstrated that the beneficiary may be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. See *1756, Inc. v. Attorney General, supra* at 16. The application of the beneficiary's knowledge to the development and integration of new company processes in the global training and development function, as well as her position as "key personnel," qualifies her as possessing knowledge that is specialized.

For the foregoing reasons, the decision of the director will be withdrawn and the petition approved.

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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. The petitioner has sustained that burden.

ORDER: The appeal is sustained.