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U.S. Citizenship
and Immigration
Services

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[REDACTED]

File: WAC 05 042 54343 Office: CALIFORNIA SERVICE CENTER Date: JAN 19 2007

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

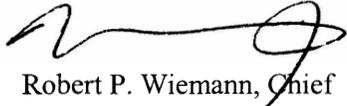
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[REDACTED]

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, California 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 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, a California corporation, is a provider of international travel agency services. The petitioner claims to be an affiliate of the beneficiary's previous foreign employer, [REDACTED] Ltd., located in Beijing, China. The petitioner seeks to employ the beneficiary as its Director of e-Business Development for a three-year period.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary has specialized knowledge or that she will be employed in a capacity involving 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 asserts that the director erred in determining that the beneficiary does not qualify for the benefit sought. Counsel provides additional explanation regarding the beneficiary's claimed specialized knowledge and the need for the beneficiary's services in the United States. Counsel submits a brief and additional evidence in support of the appeal.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

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

and the parent company with suggestions and recommendations. She will also continue to coordinate and communicate between the three offices in the U.S., Hong Kong, and Beijing.

The letter also included an overview of the beneficiary's employment history and qualifications, including descriptions of the beneficiary's last three assignments with the petitioner's group overseas:

In 2000, [the beneficiary] moved to the position of Director and Deputy General Manager of [REDACTED] Ltd, a new subsidiary which started up the first CTS website. . . . This site featured more than 7,000 pages of travel information on China and enabled customers to make instant transactions. She was involved in strategic planning of the e-Business of CTS Hong Kong, including sales and marketing, as well as managing daily operations.

In 2002, she was assigned to CTI (Beijing) where as Executive Director and Executive Deputy General Manager she was responsible for conducting feasibility studies and drafting the business plan to set up this new company as well. She was instrumental to CTS HK in getting the necessary approvals for the new venture from the Chinese government. She also set the budget and salaries, recruited travel managers and staff, and achieved a profit in the company's first year. . . .

In May 2004 [the beneficiary] returned to [REDACTED] Ltd. in Hong Kong, and resumed the position of Director & Deputy General Manager. She then began feasibility studies for the present on-line business initiative, and a report will be completed by the end of the year

With her years of travel industry experience, excellent grounding in e-Business and in-depth knowledge of CTS, we are confident that [the beneficiary] is the right person to initiate this new project in our U.S. operations. She is fluent in English. . . .

The petitioner provided a copy of the beneficiary's resume, which includes the following description of the beneficiary's responsibilities and achievements related to the group's e-Business project to be undertaken in the United States:

- Assist the GM to take charge of the travel business side of the project, doing market research, feasibility studies and human resource recruitment, etc. in the first stage.
 - Involved in the feasibility study of the online project. Joined business discussions with Travel Sky, a publicly listed and the largest online company in China. Help with partnership negotiations and drafting documentations toward future cooperation.
- At the request of the GM of the project, is currently conducting some research in the US marketing including outsourcing of some technical solutions. A report is requested to be submitted to the GM by the end of the year.

The director issued a request for additional evidence on December 7, 2004, and instructed the petitioner to submit additional evidence to establish that the beneficiary possesses specialized knowledge. Specifically, the director

requested that the petitioner provide additional evidence regarding any special or advanced duties assigned to the beneficiary and explain how the duties she performed abroad and will perform in the United States are different from those of other workers employed by the petitioner or by other U.S. employers in similar types of positions. The director also requested organizational charts for the U.S. and foreign entities and information regarding the number of employees working for each company at the location where the beneficiary would be working.

In a response dated December 14, 2004, the petitioner noted that the beneficiary has held managerial positions within the CTS group for over ten years and worked in the Chinese travel industry for over 25 years. The petitioner further explained the beneficiary's claimed specialized knowledge as follows:

Her new position is an outgrowth of the expertise she has acquired, as she will essentially be building a "web storefront" for customers to buy travel packages in Hong Kong, China, and Southeast Asia.

E-business is not just about technology. Creating an IT structure that works for an actual business within a specific industry is also a complex job. E-business solutions work best with a well-thought out business model that the technology is designed to serve. While at [REDACTED] Ltd., [the beneficiary] has been instrumental in setting up and managing the business side of CTS Hong Kong's portal. . . . She has extremely valuable knowledge of how a company network and back office system can be made to work smoothly and efficiently with an e-business portal. She has also had substantial experience in outsourcing the technical side of on-line solutions. As Director of e-Business Development at [the petitioner], [the beneficiary] will be in the right location to tap the best local vendors and developers for [the U.S. company].

In addition, [the beneficiary's] knowledge of the international . . . organization, its processes and procedures, is essential to performing her new job duties. With CTII's worldwide networks and operating structure, it would be very difficult for anyone outside the organization to understand its needs in depth and be able to communicate effectively with the affiliated companies in Hong Kong and China, as well as the U.S.

The petitioner also provided the requested organizational charts for the U.S. company, the beneficiary's current foreign employer in Hong Kong, and the beneficiary's previous foreign employer in China. The petitioner noted on the U.S. company's organizational chart that the company has already hired a part-time webmaster and a system administrator and will later hire "other developers" on an in-house or contract basis.

The director denied the petition on December 22, 2004, concluding that the petitioner had not established that the beneficiary possesses specialized knowledge or that the proposed employment is in a capacity that requires specialized knowledge. The director observed that the beneficiary's claimed specialized knowledge of the petitioner's organization, processes and procedures had not been properly detailed or shown to be substantially different from, or advanced in relation to, that of any director or manager in similar organizations.

The director further determined that the proffered position "appears to require knowledge, skills, and abilities available to . . . other professionals not affiliated with the petitioner, its affiliates or subsidiaries," including

employees of consulting firms, IT professionals and other organizations “around the globe.” The director noted that while the petitioner emphasized the beneficiary’s knowledge of “how a computer network and back office system can be made to work smoothly and efficiently with an e-business portal,” the petitioner stated that it would use “local vendors and developers” to develop and implement its e-Business project, while the beneficiary would coordinate the project, a role which would not require the same “command of specialized knowledge.”

In an appeal filed on January 21, 2005, counsel for the petitioner emphasizes that as a member of the Board of Directors of the foreign entity, the beneficiary “has an advanced level of knowledge of the CTS organization and its business.” Counsel asserts that the beneficiary is a critical employee based on her “notable success performing key management roles within the organization,” and states that the beneficiary’s experience “has given her expertise and on-the-ground knowledge of the procedures and operating issues in those organizations.” Counsel asserts that the beneficiary was chosen for the offered position “because of her advanced knowledge and experience with the CTS organization’s products, services, techniques, research, strategy and management.”

Counsel further asserts that the proffered position in the United States requires the beneficiary’s specialized knowledge, noting that the parent company “intends to re-engineer [the petitioner] with a new business model and empowered by e-commerce.” Counsel emphasizes that the parent company is only willing to entrust the project to a member of its management team and chose the beneficiary because of her previous roles, and because she already completed the business plan for the new project. Counsel asserts that the beneficiary “has advanced knowledge of the complex buy/sell structure within the system of China Travel Service companies that will need to be incorporated into the new software. This information is known only to senior management and would also be difficult to teach to someone who did not have long experience with the company.” Counsel also emphasizes that the beneficiary has 25 years of experience in the “China and Asia tourist industry” which will allow her to “assist in creating a web portal that will meet all the needs of Chinese visitors to the U.S., as well as U.S. visitors to China.”

Counsel states that although the Immigration Act of 1990 removed the requirement that a petitioner establish that a beneficiary’s claimed specialized knowledge is proprietary, the petitioner nevertheless considers its research and strategic planning confidential and “has an interest in keeping the details within the organization.” Finally, counsel asserts that the beneficiary possesses the characteristics of an employee with specialized knowledge as outlined in an October 27, 1988 legacy Immigration and Naturalization Service memorandum, in that she (1) possesses knowledge that is valuable to the employer’s competitiveness in the marketplace; (2) is uniquely qualified to contribute to the U.S. employer’s knowledge of foreign operating conditions; (3) has been utilized as a key employee abroad and been given significant assignments that have enhanced the employer’s productivity, competitiveness, image, or financial position; and (4) they possess knowledge that can be gained only through extensive prior experience with that employer. See Memorandum from Richard E. Norton, Associate Commissioner for Examinations, Immigration and Naturalization Services, *Interpretation of Specialized Knowledge Under the L Classification*, CO 214.2L-P (October 27, 1986)(“Norton memorandum”).

In support of the appeal, the petitioner submits a January 14, 2005 letter from the general manager of the petitioner’s ultimate parent company, who further describes the beneficiary’s claimed specialized knowledge:

[The beneficiary] is one of our most senior managers and the key person in our organization charged with carrying out our e-Business initiative. This \$300 million (HK) project . . . will revolutionize how China Travel Service does business in the U.S. and internationally.

[The beneficiary] . . . has the greatest knowledge of anyone within our organization of the full picture of our e-Business issues and strategy, in addition to the know-how to optimize our products and procedures to make this new venture a success. In her ten years with [the foreign organization] she has been a critical force in the start-up of [REDACTED] Ltd. in Hong Kong and our web portal. . . . We feel it is now time to launch a new, fully-enabled web portal in the United States that meets American standards for design, visual interest and ease of use. . . .

* * *

Before and after her assignment with CTI (Beijing), [the beneficiary] has served as deputy general manager of [REDACTED] Ltd., located in Hong Kong. Here she also acted as chief operating officer, leading the project team to set up . . . an e-business storefront for the Hong Kong market.

At [REDACTED] Ltd., she led both the technical team and the operations team to create a website which was customer oriented and information rich. The new website enabled customers to view and buy travel products. . . online in real time by credit card or on an existing account. The portal was connected to an in-house database enabling the frequent updating of the content of the website. The website also emphasized user-friendly presentation of our company's products in a business to business system and business to customer system. . . . [The beneficiary] also developed model procedures for the sales team on these two systems, optimizing off-line work flow and follow-through after the order is received from the customer.

Since 2000, [the beneficiary] has been on the Board of Directors of China Travel Service (Hong Kong) Ltd. She has been a leading source of research, strategy and planning regarding the importance of incorporating the latest e-Business methods and technology in China Travel Service's future. . . . From her perspective. . . she is exceptionally familiar with all of the organizational functions involved and the variety of special circumstances within the China Travel Service family of companies.

The foreign entity goes on to further describe the beneficiary's proposed role as Director of e-Business Development for the U.S. entity, noting the group's intention to "re-engineer" the U.S. company with a new business model "empowered by e-commerce, with most of the business functions and transactions web-based." The foreign entity indicates that the beneficiary has drafted the business plan for the project, and notes that the beneficiary possesses the experience "to choose the right technology for the business operational and management needs of our company." The foreign entity further describes the U.S. position and the beneficiary's qualifications as follows:

[The beneficiary] has a successful track record of developing the right kind of online products for specific markets. Furthermore, she will know how to avoid pitfalls in merging online processes with traditional functions while maximizing user friendliness in our U.S. operations.

In addition, there is a complex buy/sell structure within the system of China Travel Service companies which will need to be worked out in the new software. No one with this knowledge could be hired from within the U.S. and it cannot be taught effectively to someone who does not have a senior position and long experience in our company's international operations.

Currently, there are two websites associated with China Travel Service USA. . . . The new portal needs to be set up in such a way that the cultural expectations of the Chinese, as well as the U.S., market are met. When a quotation is requested from the China side, the US tour operator must know how to respond to such a request with some understanding of the requirements of Chinese travelers. We are confident that the presentation and processing of our travel products will benefit from [the beneficiary's] sure instincts and many years of experience in the Chinese and American tourism field.

Finally, the foreign entity's general manager emphasizes that a direct outcome of the beneficiary's proposed U.S. assignment will be the hiring of local database programmers and consultants for the e-Business development project. He further notes that the beneficiary "is not an IT manager and is committed to obtaining the services of the best people available for the technical side of the project."

The petitioner also submits a draft e-Business Plan for the U.S. company, dated January 10, 2005, which was written by the beneficiary. The business plan, at pages 10 and 11, mentions the U.S. company's need for an information technology department to include a qualified project manager who is "professionalized in the tourism industry with good management capabilities. . . . familiar with tourist market, tourist products, operational processes, and sales & marketing skills. . . . We need to recruit such a person to sit inside the management team and monitor the whole operations of the e-biz development stages." The business plan also referenced the need for a professionally trained IT manager who "has the know-how on computer hard ware [sic] and soft ware [sic] and self-programming. He will be instrumental in outsourcing technology, in the evaluation of the outsourced technology, site inspection during the installation period and help with the final check of the system installed."

The e-Business plan also indicates at page 16 that "E-commerce IT solution is quite developed in the United States. Ready-made solutions for tour operators and travel agents are easily available here. There is no necessity to develop any new solution neither by us nor by out-sourcing IT companies. The adoption of ready-made solution may lower the cost in large scale as well as speed up the process. Public bidding should be invited to suppliers for solutions with better function/cost ratio." The business plan references several potential suppliers being considered for the project and notes that "professional appraisal" will be carried out before any contracts are entered with suppliers, possibly by professionals sent by the parent company.

On review, the petitioner has not demonstrated that the beneficiary has specialized knowledge or that the proffered position in the United States requires an employee with specialized knowledge. 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 job 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. *See 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)).¹ 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 for his ability to carry out a key process or function which is important or essential to the business' operation.

Id. at 53.

In addition, the statutory definition requires the AAO to make comparisons in order to determine what constitutes specialized knowledge. 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 term "specialized knowledge" is relative and cannot be plainly defined. 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 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.

¹ 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, that the cited cases, as well as *Matter of Penner*, remain useful guidance concerning the intended scope of the "specialized knowledge" L-1B classification.

Here, the beneficiary's proposed job duties do not identify services to be performed by the beneficiary in a specialized knowledge capacity. For example, the beneficiary's responsibilities of researching and proposing solutions for the integration of the U.S. and foreign operations, hiring and supervising information technology vendors, establishing a new department to develop an in-house reservation system, monitoring budgets and purchasing activities, monitoring expenses, overseeing on-line marketing promotion, and overseeing the restructuring of the U.S. company's web site are all general managerial duties that could reasonably be performed by an experienced manager in the international travel industry who had some background in e-business aspects of the field. While the project to be undertaken in the United States appears to be part of a larger effort to coordinate operations between the Chinese, Hong Kong and U.S. entities, the record indicates that the U.S. company will use outside information technology service providers and purchase ready-made solutions to achieve its objectives to "re-engineer" the U.S. company's existing web-based operations. Furthermore, while the petitioner emphasizes the beneficiary's role in establishing the overall information technology strategy for the U.S. company, the business plan developed by the beneficiary specifically states: "There is no necessity to develop any new solution neither by us nor by out-sourcing IT companies." If the U.S. company is purchasing a ready-made travel industry e-business solution, rather than implementing the same type of e-Business environment as the foreign entity, it is not clear how the beneficiary's prior experience is required for the U.S. position.

The record is devoid of any documentary evidence that the beneficiary's proposed position would involve the application of special knowledge of the petitioning organization's product, service, research, equipment, techniques, management, or other interests as required in the regulations. The petitioner's suggestion that the beneficiary will rely on her previous experience managing similar activities for the foreign entity is not supported by evidence in the record. While her familiarity and experience with the foreign entity's operations and capabilities are undoubtedly valuable to the petitioner, the evidence of record fails to establish that any prior experience with the foreign entity would actually be required to perform the general oversight activities proposed.

The AAO acknowledges that it is possible for an individual employed in a managerial role to meet the criteria for specialized knowledge capacity set forth at section 214(c)(2)(B). However, the petitioner has not established that the particular position offered to the beneficiary requires an individual with knowledge, experience or characteristics beyond possession of familiarity with the U.S. and Chinese tourism markets, general knowledge of e-business requirements and options in the petitioner's industry, general business and management skills, marketing and sales skills, and knowledge of the English and Chinese languages. Counsel emphasizes that the beneficiary "is not an IT manager" and must therefore hire outside information technology providers and perform research to choose ready-made IT solutions for the company. Again, there is no evidence that she would rely on "special" or "advanced" knowledge of the petitioner's products or processes in order to perform the proposed duties. The fact that the petitioner's parent company "is only willing to entrust this project to a seasoned member" of its management team, or the fact that it prefers to keep its "research and strategic planning confidential" is insufficient to establish that the beneficiary possesses specialized knowledge or that the offered position requires specialized knowledge.

In addition, the petitioner must establish how the claimed specialized knowledge relates specifically to the petitioning company. Here the petitioner's only attempt to explain how the beneficiary's knowledge is

specific to the company is its statement that “she has an advanced knowledge of the complex buy/sell structure within the system of [the petitioner’s group of companies] that will need to be incorporated into the new software. This information is known only to senior management and would be difficult to teach someone who did not have long experience with the company.” The petitioner provided no further description of this “buy/sell structure” such that its actual complexity could be determined, nor did it explain how the beneficiary would ensure that it is incorporated into the software, since the beneficiary herself will not be engaged in software development but will rather hire IT professionals to implement software and purchase pre-packaged solutions that are available to other companies in the industry. Without additional information, the AAO cannot assess the relevance of this claimed “advanced knowledge.” 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)). There is no evidence that the beneficiary’s knowledge of the foreign entity’s e-business systems and software extends beyond that of mere familiarity that could easily be transferred to another individual with a similar professional background.

Such a conclusion is supported by the petitioner’s business plan, which indicates the U.S. company’s intent to locally recruit a project manager and an information technology manager for the company’s e-Business project. According to the business plan, the project manager would need to be familiar with the tourism industry, market and products, “operational processes,” and possess good management capabilities and sales and marketing skills. The employee would be a member of the management team and “monitor the whole operations of the e-biz development stages.” The petitioner further indicated its intent to locally hire an IT manager who would be responsible for outsourcing technology and evaluating the technology. Based on the petitioner’s representations, both of these management-level employees would be more intimately involved in the implementation and management of the e-Business project than the beneficiary, yet are not required to have any experience with the foreign entity’s operations, processes or services. The petitioner has not demonstrated how the U.S. position requires more than management skills and general knowledge that is common in the U.S. travel industry.

The AAO does not disagree with the petitioner’s assertion that the beneficiary will be employed primarily to carry out a key process or function. However, the statute and regulations require the petitioner to demonstrate that the beneficiary possesses, and that the proposed employment requires, special knowledge of the petitioning organization’s product, service, research, equipment, techniques, management, or other interests, or an advanced level of knowledge or expertise in the organization’s processes and procedures. The beneficiary’s knowledge and expertise, while valuable to the petitioner, does not include the type of special or advanced knowledge required by the regulations.

Finally, counsel’s reliance on the Norton memorandum is misplaced. It is noted that the memorandum was intended solely as a guide for employees and will not supercede the plain language of the statute or the regulations. Therefore, by itself, counsel’s assertion that the beneficiary’s qualifications are analogous to the examples outlined in the memorandum is insufficient to establish the beneficiary’s qualification for classification as an intracompany transferee with specialized knowledge. Specifics are clearly an important indication of whether a beneficiary’s duties encompass specialized knowledge; otherwise meeting the definition would simply be a matter of reiterating the regulations. *See, e.g., Fedin Bros. Co., Ltd. v. Sava*, 724

F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). While the beneficiary may possess knowledge valuable to the petitioner's productivity, competitiveness, and financial position and has held key assignments abroad, these factors, by themselves, do not constitute the possession of specialized knowledge. While the beneficiary's contribution to the economic success of the company may be considered, the regulations specifically require that the beneficiary possess an "advanced level of knowledge" of the organization's process and procedures, or a "special knowledge" of the petitioner's product, service, research, equipment, techniques, or management. 8 C.F.R. § 214.2(l)(1)(ii)(D). **As determined above, the beneficiary does not satisfy the requirements for possessing specialized knowledge.**

Based on the foregoing discussion, the petitioner has not established that the beneficiary possesses special knowledge of the petitioner's products or services, or an advanced level of knowledge of the company's processes or procedures, nor has it established that the position of Director of e-Business Development within its organization requires specialized knowledge. The AAO concurs with the petitioner's assertions that the beneficiary is highly qualified for the position offered, and recognizes that the beneficiary, as a senior management employee, would carry out key functions within the petitioner's organization. The AAO also recognizes the petitioner's preference to secure the services of an employee who has worked for its parent company; however, these elements are insufficient to establish eligibility for classification as a specialized knowledge worker.

The plain meaning of the term "specialized knowledge" is knowledge or expertise beyond the ordinary in a particular field, process, or function. The petitioner has not furnished evidence sufficient to demonstrate that the beneficiary's duties involve knowledge or expertise beyond what is commonly held by management-level employees in her field. There is nothing in the record to suggest that any other experienced employee within the parent company's organization, or any employee with a record of success in a similar role within the petitioner's industry, could not adequately perform the proposed duties.

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 not demonstrated that the beneficiary should be considered a member of the "narrowly drawn" class of individuals possessing specialized knowledge. *See 1756, Inc. v. Attorney General*, 745 F. Supp. at 16. Based on the foregoing, the record does not establish that the beneficiary would be employed by the U.S. entity in a specialized knowledge capacity. For this reason, the appeal will be dismissed.

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. Accordingly, the director's decision will be affirmed and the petition will be denied.

ORDER: The appeal is dismissed.