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U.S. Citizenship and Immigration Services

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[redacted]

File: LIN 04 199 51270 Office: NEBRASKA SERVICE CENTER Date: NOV 05 2007

IN RE: Petitioner:
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 BENEFICIARY:

[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, Nebraska 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 in the position of application engineer 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 Delaware corporation, which claims to be a software development, engineering, and consulting business. The petitioner seeks to employ the beneficiary for a period of three years.

The director denied the petition, concluding that the petitioner failed to establish (1) that the beneficiary has been employed abroad in a capacity involving specialized knowledge for the requisite one-year period; or (2) that the beneficiary will be employed in the United States in a capacity involving specialized knowledge. While the primary basis for the director's decision was the petitioner's failure to establish that the beneficiary possessed specialized knowledge, the director further determined that, even if the beneficiary's knowledge was established to be "specialized," the petitioner failed to establish that the position in the United States involved this specialized knowledge.

On appeal, counsel for the petitioner asserts that the petitioner has satisfied the criteria for establishing that the beneficiary has been employed abroad, and will be employed in the United States, in a specialized knowledge capacity. Counsel further argues that the director erred in basing the denial on the petitioner's failure to establish that the beneficiary's purported specialized knowledge had been imparted to him in a training program.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, 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 within three years preceding the beneficiary's application for admission into the United States. 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.

(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.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides:

> 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 first issue in this proceeding is whether the petitioner has established that the beneficiary had been employed abroad in a specialized knowledge capacity for the requisite one-year period. 8 C.F.R. § 214.2(l)(3)(iii)-(iv).

In a letter dated June 24, 2004 appended to the petition, the petitioner described the beneficiary's purported specialized knowledge and experience abroad as follows:

> [The beneficiary] possesses an advanced level of knowledge of [the petitioning organization's] methodologies, applications and software packages and will continue to apply this knowledge during his assignment in the United States. [The beneficiary] will continue to perform engineering and design duties using high-end software applications. [The beneficiary's] advanced level of knowledge involves the application and deployment of the engineering tools and their integration towards the successful completion of the assignment project. [The beneficiary] will be using [the petitioning organization's] systems integration approach in all aspects of his duties.
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> [The beneficiary] was specifically selected for the highly technical specialized knowledge assignment of Application Engineer based upon his significant professional experience at [the foreign employer] in positions requiring expertise with [the foreign employer's] methodologies and processes. [The beneficiary] joined [the foreign employer] in March 2003 and worked for [the foreign employer] performing the responsibilities of a Manager

> ([computer-aided design]) until the present. In this capacity, [the beneficiary] was responsible for the same engineering duties as described in [this petition and supporting documents]. Specifically, [the beneficiary] managed the engineering support functions and design project for overseas clients in the areas of Plastics product design, Mould design, Machining Fixture design and design of process equipments such as Actuators and Volume Boosters. He also worked on establishing injection mould design resources. He trained customers in the use of the above-mentioned software packages, conducted customer-specific system benchmarking, and provided expert consulting services regarding the use and optimization of the noted software packages. He is also proficient in many of the prevalent software technologies and projects, particularly high-end software tools and modules.
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> Prior to joining [the foreign employer], [the beneficiary] worked for [a third party employer] as an Engineer from August 1993 to March 2003 performing design and development of design of injection moulds, design of die castings, dies validation of moulds and dies; and core and cavity design using Unigraphics and reverse engineering.

On July 12, 2004, the director requested additional evidence. The director requested, *inter alia*, evidence that the beneficiary's knowledge is uncommon, noteworthy, or distinguished by some unusual quality and not generally known by practitioners in the filed. The director also queried how and when the beneficiary acquired the purported "specialized knowledge" during the beneficiary's sixteen (16) months of employment with the foreign employer. Finally, the director requested a copy of the contract, work order, or other document which demonstrates that the proposed project in the United States requires a worker to have the beneficiary's claimed specialized knowledge.

In response, counsel to the petitioner submitted a letter dated July 28, 2004 in which he further describes the beneficiary's claimed specialized knowledge as follows:

> [The beneficiary] possesses an advanced level of knowledge with [the petitioning organization's] design and quality processes and [the petitioning organization's] File Transfer Protocol (FTP). He further has an advanced level of knowledge with [the petitioning organization's] system integration approach along with advanced knowledge of [the petitioning organization's] projects using plastics tooling designs.
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> Additionally, [the beneficiary] is familiar with [the petitioning organization's] design engineering standards and applying those standards using the aforementioned software modules and applications consistent with [the petitioning organization's] engineering methodologies. [The beneficiary's] knowledge of [the foreign entity's] operating procedures makes him qualified to contribute to [the petitioning organization's] knowledge of foreign operating conditions. As noted above, he will be using [the petitioning organization's] design

> and quality processes and File Transfer Protocol (FTP) and [the petitioning organization's] systems integration approach. It would be impossible for an engineer without [the beneficiary's] background/experience/level of knowledge to make such a contribution.
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> * * *
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> [The beneficiary] has advanced knowledge and expertise in [the petitioning organization's] engineering methodology, particularly thermoforming. A generally skilled engineer in India or the U.S. would not be able to fulfill his proposed position in the U.S. because he/she would not possess the advanced level of knowledge that is gained solely through overseas employment with [the foreign employer].
>
> [The beneficiary] possesses an advanced level of expertise with [the petitioning organization's] systems integration approach. [The beneficiary] is able to combine the knowledge of mechanical engineering, add-on programs and customization of software using [the petitioning entity's] software, applications, methodologies and training.
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> [The beneficiary's] advanced level of knowledge with [the petitioning entity's] design engineering standards and his expertise in applying those standards using specialized software, applications, methodologies and training based upon his experience with [the foreign employer] sets him apart and makes him uniquely qualified to continue these services for [the petitioner's] clients in the United States. This experience clearly could only be gained through prior experience with [the foreign employer].
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> It would be extremely difficult to transfer/teach [the beneficiary's] knowledge of process/procedure and methodology to another individual. [The beneficiary's] advanced level of knowledge is based upon his experience with [the foreign entity] particularly in the level of expertise he has gained in working on projects for [the petitioning organization]. This level of knowledge requires combined knowledge of product/project, foreign entity operational procedures, engineering design methodology, advanced software applications and engineering standards.

The petitioner also submitted a letter dated July 22, 2004 providing further details regarding the beneficiary's experience with specific projects and software. Generally, the petitioner claims that the breadth of the beneficiary's experience and knowledge distinguishes him from other similarly experienced professionals. The petitioner also described the beneficiary's specialized knowledge as follows:

> During the sixteen (16) months that [the beneficiary] has been working for [the foreign employer], he has gained advanced knowledge and experience with the systems and procedures that have been implemented to serve international clients. He possesses an advanced knowledge of the procedures being used in [the foreign employer] for successful

> completion of programs/product designs. Coupled with his knowledge in the field of plastics with specialty in Thermoforming and Injection Molding, [the beneficiary] is ideally suited to be the *resource* for our System Integration Approach to working with global clients.

The petitioner did not specifically respond to the director's query regarding how and when the beneficiary acquired his claimed specialized knowledge during his 16 months of employment abroad.

On August 10, 2004, the director denied the petition concluding that the petitioner failed to establish that the beneficiary has been employed abroad in a specialized knowledge capacity for the requisite one-year period.

On appeal, counsel asserts that the petitioner has satisfied the criteria for establishing that the beneficiary has been employed abroad in a specialized knowledge capacity. Counsel argues that the director erred in basing the denial on the petitioner's failure to establish that the beneficiary's purported specialized knowledge had been imparted to him in a training program. Counsel relies in part on the adjudication guidance set forth in a Memorandum from [redacted] Acting Executive Associate Commissioner, Immigration and Naturalization Service, *Interpretation of Specialized Knowledge*, CO 214L-P (March 9, 1994).

Upon review, the petitioner's assertions are not persuasive in demonstrating that the beneficiary has been employed abroad in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D) for the requisite one-year period.

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). The petitioner must submit a detailed job description of the services performed sufficient to establish specialized knowledge. In this case, the petitioner fails to establish that this position required an employee with specialized knowledge or, even if it did, that the beneficiary had been employed in a specialized knowledge capacity for the requisite one year abroad.

Although the petitioner repeatedly asserts that the beneficiary's position abroad required "specialized knowledge" and that the beneficiary had been employed abroad in a "specialized knowledge" capacity, the petitioner has not adequately articulated any basis to support this claim. The petitioner has failed to identify any special or advanced body of knowledge which would distinguish the beneficiary's role from that of other similarly experienced workers employed by the foreign entity or in the industry at large. Going on record without 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)). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724, F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905, F.2d 41 (2d. Cir. 1990).

The petitioner asserts that the beneficiary possesses specialized knowledge of the petitioner's methodologies (particularly thermoforming), applications, and software packages as well as the application, deployment, and integration of certain engineering tools. The petitioner also asserts that the beneficiary has an advanced knowledge of the petitioner's "systems integration approach;" the petitioner's "design engineering standards;"

the application of said standards using specialized software, applications, methodologies and training; the petitioner's "design and quality processes;" the petitioner's "File Transfer Protocol (FTP);" and the petitioner's projects using "plastic tooling designs." Finally, the petitioner asserts that the beneficiary's experience could only have been gained through prior experience with the foreign employer.

In support of its petition, the petitioner relies heavily on its position that the beneficiary's knowledge could only have been gained through experience with the foreign entity. However, despite this assertion, the record does not reveal the material difference between the skills and knowledge needed to work with the petitioner's methodologies, processes, approaches, applications, software packages, design standards, and protocols and similar methodologies, processes, approaches, applications, software packages, design standards, and protocols in the computer industry. While the petitioner asserts repeatedly that the beneficiary gained his knowledge through experience, the record does not establish that the beneficiary's knowledge is different from the knowledge possessed by application engineers generally throughout the industry or by other employees of the foreign entity. The fact that no other employee possesses the "equivalent" breadth of knowledge does not establish that the beneficiary's knowledge is indeed uncommon. All employees can be said to possess unique and unparalleled skill sets to some degree; however, a unique skill set that can be imparted to another similarly experienced and educated employee without significant economic inconvenience is not "specialized knowledge." Moreover, the proprietary or unique qualities of the petitioner's processes, methodologies, or products do not establish that any knowledge of these is "specialized." Rather, the petitioner must establish that qualities of the unique or proprietary processes, methodologies, or products require employees to have knowledge beyond what is common in the industry.

Like any well-kept secret, it is likely that there are certain aspects to this, and all, processes, methodologies, and applications which are known only by certain employees. However, this does not establish that this knowledge is "specialized" for purposes of this visa classification. The petitioner must establish that the beneficiary's knowledge is specialized because he gained the knowledge through extensive training or experience which could not easily be transferred to another employee. In this matter, the petitioner has not established that the beneficiary's knowledge is materially different from that possessed by similar employees with experience with similar products or processes. The fact that other professionals may not have very specific, proprietary knowledge regarding the petitioner's processes, methodologies, or products is not relevant to these proceedings if this knowledge gap could be closed by the petitioner by simply revealing the information to a newly hired, similarly experienced employee after a few months of on-the-job instruction. In fact, it appears that the beneficiary had been employing the exact same knowledge and skill set for a different employer for almost ten years before joining the foreign employer in March 2003. The fact that the beneficiary apparently had already acquired most of his experience while employed elsewhere significantly undermines the petitioner's claim that it would be difficult, if not impossible, to transfer this knowledge to a similarly trained and experienced professional.

As recognized by the director, it is simply not credible that the beneficiary, who was employed abroad for a total of 16 months, acquired "specialized knowledge" through four months of experience and thereafter worked in a "specialized knowledge" capacity for at least one year before the filing of the instant petition. While counsel correctly observes that a beneficiary need not be subjected to a specific type of training program for any specific length of time, the petitioner nevertheless must establish that the knowledge in

question "would be difficult to impart to another individual without significant economic inconvenience" to the petitioner or the foreign employer. Memorandum from [redacted] Acting Executive Associate Commissioner, Immigration and Naturalization Service, *Interpretation of Specialized Knowledge*, CO 214L-P at 3. In this matter, if the purported "specialized knowledge" could be imparted to an employee with a similar education and with a similar work history after approximately four months of on-the-job experience, then this knowledge would not be specialized since it could be imparted to another individual without significant economic inconvenience. 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.

Even assuming that the beneficiary does possess "specialized knowledge," the petitioner has not established that he acquired this knowledge in time for him to have been employed in a specialized knowledge capacity for at least one year. As explained above, the record does not reveal when, exactly, the beneficiary commenced working in a specialized knowledge capacity even though this information was specifically requested by the director. Once again, 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. at 165. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). Therefore, the petitioner has not established that the beneficiary was a key employee of crucial importance abroad and that he was employed in a specialized knowledge capacity for at least one year before the instant petition was filed.

The AAO does not dispute the possibility that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. However, it is 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)). As stated by the Commissioner in *Matter of Penner*, 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." 18 I&N Dec. at 52. 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 firm's operation.

Id. at 53.

It should be noted that 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 the employee and the remainder of the petitioner's workforce. While it may be correct to say that the beneficiary in the instant case is a highly skilled and productive employee, this fact alone is not enough to bring the beneficiary to the level of "key personnel."

Moreover, 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. REP. 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 further 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*, 18 I&N 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* than 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. v. Attorney General*, 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.")

The aforementioned 1994 Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) memorandum written by the then Acting Executive Associate Commissioner also directs CIS to compare the beneficiary's knowledge to the general United States labor market and the petitioner's workforce in order to distinguish between specialized and general knowledge. The Associate Commissioner notes in the memorandum that "officers adjudicating petitions involving specialized knowledge must ensure

that the knowledge possessed by the beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized." Memorandum from [redacted], Acting Associate Commissioner, Immigration and Naturalization Service, *Interpretation of Specialized Knowledge*, CO 214L-P at 3. A comparison of the beneficiary's knowledge to the knowledge possessed by others in the field is therefore necessary in order to determine the level of the beneficiary's skills and knowledge and to ascertain whether the beneficiary's knowledge is advanced. In other words, absent an outside group to which to compare the beneficiary's knowledge, CIS would not be able to "ensure that the knowledge possessed by the beneficiary is truly specialized." *Id.* The analysis for specialized knowledge therefore requires a test of the knowledge possessed by the United States labor market, but does not consider whether workers are available in the United States to perform the beneficiary's job duties.

As explained above, the record does not distinguish the beneficiary's knowledge as more advanced than the knowledge possessed by other people employed by the foreign entity or by application engineers employed elsewhere. As the petitioner has failed to document any materially unique qualities to the beneficiary's knowledge, the petitioner's claims are not persuasive in establishing that the beneficiary, while perhaps highly skilled, would be a "key" employee. There is no indication that the beneficiary has any knowledge that exceeds that of any other similarly experienced professional or that he has received special training in the company's methodologies or processes which would separate him from other professionals employed with the foreign entity or elsewhere. It is simply not reasonable to classify this relatively new employee who must have acquired his purported specialized knowledge in four months or less as a key employee of crucial importance to the organization.

The legislative history of 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, supra* at 16. Based on the evidence presented, it is concluded that the beneficiary was not employed abroad in a capacity involving specialized knowledge. For this reason, the appeal will be dismissed.

The second issue in the present matter is whether the petitioner has established that the beneficiary will be employed in a specialized knowledge capacity in the United States. 8 C.F.R. § 214.2(l)(3)(ii).

For the same reasons articulated above, the petitioner has failed to establish that the beneficiary will be employed in the United States in a capacity involving specialized knowledge. The petitioner has failed to identify any special or advanced body of knowledge which would distinguish the beneficiary's role from that of other similarly experienced workers employed by the petitioner or in the industry at large in the United States. Therefore, as the petitioner has failed to establish that the beneficiary has specialized knowledge, the petition cannot be approved for this reason.

In addition, even assuming that the beneficiary has specialized knowledge, the petitioner has not established that the beneficiary will be employed in the United States in a capacity involving this specialized knowledge.

The petitioner described the beneficiary's proposed job duties in a letter dated June 24, 2004. As this letter is

in the record, its contents will not be repeated here. Generally, the beneficiary is described as applying his knowledge of the petitioning organization's methodologies, applications, and software packages to projects in the United States.

On July 12, 2004, the director requested additional evidence. The director requested, *inter alia*, a copy of the contract, work order, or other document which demonstrates that the proposed project in the United States will involve the beneficiary's claimed specialized knowledge.

In response, the petitioner submitted a letter dated July 22, 2004, which further describes the beneficiary's assignment in the United States. As this letter is also in the record, its contents will not be repeated here. Generally, the petitioner described the types of software and technologies with which the beneficiary will work. However, the petitioner did not provide any information regarding a specific project or client.

On August 10, 2004, the director denied the petition. The director concluded that the petitioner failed to establish, assuming the beneficiary had specialized knowledge, that the beneficiary will be employed in an assignment involving this specialized knowledge.

On appeal, counsel asserts that the beneficiary will be employed in a capacity involving specialized knowledge.

Upon review, counsel's assertions are not persuasive.

As correctly noted by the director, the petitioner failed to establish, even assuming the beneficiary's knowledge was specialized, that he would be employed in a capacity involving this specialized knowledge in the United States. Even though specifically requested by the director, the petitioner failed to provide any information regarding the specific project(s) on which the beneficiary will work in the United States. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). Once again, 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. at 165. While the petitioner described software and technologies with which the beneficiary will work, the petitioner failed to connect the purported specialized knowledge with any specific project or job. Therefore, the record is devoid of any evidence that the beneficiary's employment in the United States will involve the claimed specialized knowledge, and the petition may not be approved for this additional reason.

Accordingly, the petitioner has not established that the beneficiary will be employed in the United States in a specialized knowledge capacity as required by 8 C.F.R. § 214.2(l)(3)(ii), or that he has specialized knowledge.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc.*, 229 F. Supp. 2d at 1043.

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 appeal will be dismissed.

ORDER: The appeal is dismissed.