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File: SRC 04 053 51118

Office: TEXAS SERVICE CENTER Date:

OCT 24 2006

IN RE:

Petitioner:

Beneficiary:



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, Texas 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 company formed under the laws of the State of Georgia, sells and provides support for publishing software and claims to be an affiliate of [REDACTED] Europe A/S, located in Hoejbjerg, Denmark.

The director denied the petition concluding that the petitioner had not established that the beneficiary possessed 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 failed to consider important evidence establishing specialized knowledge. In support of this assertion, the petitioner submitted a brief and additional sales documentation.

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, 8 U.S.C. § 1101(a)(15)(L). 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 the 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) 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.

The primary issue to be discussed in the present matter is whether the petitioner has established that the beneficiary's position in the United States will involve specialized knowledge as required by the regulation at 8 C.F.R. § 214.2(l)(3)(ii).

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 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 or procedures.

In the initial petition, the petitioner described the beneficiary's job duties and specialized knowledge as follows:

As [c]ustomer [s]ervice [m]anager, [the beneficiary] utilizes his proprietary knowledge of the [petitioner's entire] product suite and his experience with the company's project management to coordinate customer service activities and provide technical expertise to our customers. Specifically, he analyzes the needs and requirements of the individual customers to determine the most appropriate product configuration for their company and serves as the primary contact for discussing the use and improvement of the systems with the customers. He also coordinates and manages the company's efforts to grow its customer base and maintain the best possible relationship with its customers, working toward a strategic alliance from which both [the petitioner] and the customers can benefit.

On December 24, 2003, the director requested additional evidence.

In response, counsel submitted a brief and additional documents. As part of this response, the petitioner submitted a letter dated January 13, 2004, which provided the following description of the training required for the proffered position:

The training required to become a [company] [c]ustomer [s]ervice [m]anager is extensive. In short, the training program consists of an initial three-month (eight-hours per day) program where expert knowledge about the proprietary components and setup of components within our solutions is taught. Specific subjects covered include training in the individual proprietary applications[,i.e., NewsDesk and AdDesk], the applied unique project/implementation model

and the [petitioner] customer relationship philosophy. In learning how to use and implement these applications, the trainee also gains extensive training in [the petitioner's] unique integrations of third party products. After the initial three-month training program, the trainee undergoes an approximate six month on-the-job training program as a junior [c]ustomer [s]ervice [m]anager, closely guided and coached by an experienced [c]ustomer [s]ervice [m]anager. The trainee is getting progressively more advanced, customer-specific assignments and is building knowledge about the customers that will be in his or her portfolio when the full program is completed. During this second phase, training in specific knowledge areas continues to take place in [petitioner] applications, project models and technical topics.

On January 29, 2004, the director denied the petition. The director determined that the beneficiary did not possess specialized knowledge and that the position did not require a person with specialized knowledge.

Petitioner subsequently appealed. On appeal counsel for the petitioner asserts that the director was erroneous in her determination.

As a threshold matter regarding the petitioner's claim of specialized knowledge, it must be noted that in making a determination as to whether the knowledge possessed by a beneficiary is special or advanced, the AAO relies on the statute and regulations, legislative history and prior precedent. Although both counsel and the director place special emphasis on the 1994 memorandum written by James A. Puleo, prior Acting Associate Commissioner for the legacy Immigration and Naturalization Service (INS), the memorandum was issued as guidance to assist Citizenship and Immigration Services (CIS) employees in interpreting a term that is not clearly defined in the statute, not as a replacement for the statute or the original intentions of Congress in creating the specialized knowledge classification, or to overturn prior precedent decisions that continue to prove instructive in adjudicating L-1B visa petitions. Memorandum from James A. Puleo, Acting Associate Commissioner, Immigration and Naturalization Service, *Interpretation of Special Knowledge*, CO 214L-P (March 9, 1994)("Puleo memorandum"). Merely claiming that the facts of the instant petition resemble a particular example provided in the 1994 memo is insufficient to establish that the beneficiary qualifies for this visa classification. The AAO will weigh guidance outlined in policy memoranda accordingly, but not to the exclusion of the statutory and regulatory definitions, legislative history or prior precedents.

In examining the specialized knowledge capacity of the beneficiary, the AAO will look first to the petitioner's description of the job duties and the weight of the evidence supporting any asserted specialized knowledge. 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 then 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. A specific occupation will not inherently qualify a beneficiary as possessing specialized knowledge. *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)).<sup>1</sup> 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 firm's operation.

*Id.* at 53.

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). Although the definition of "specialized knowledge" in effect at the time of *Matter of Penner* was superseded by the 1990 Act to the extent that the former definition required a showing of "proprietary" knowledge, the reasoning behind *Matter of Penner* remains applicable to the current matter. The decision noted that the 1970 House Report, H.R. Rep. No. 91-851, 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, supra* 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 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

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<sup>1</sup> 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 regulation or precedent decisions 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.

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.")<sup>2</sup>

Thus, based on the intent of Congress in its creation of the of the L-1B visa category, as discussed in *Matter of Penner*, even showing that a beneficiary possesses specialized knowledge does not necessarily establish eligibility for the L-1B intracompany transferee classification. The petitioner should also submit evidence to show that the beneficiary is being transferred to the United States as a crucial employee. As discussed below, the beneficiary's job description does not distinguish his knowledge as more advanced or distinct among customer service managers employed by the foreign or 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.

Counsel relies in part on the 1994 Puleo memo, which the AAO notes also allows CIS to compare the beneficiary's knowledge to the general United States labor market in order to distinguish between specialized and general knowledge. The Acting Associate Commissioner notes in the memorandum that "officers adjudicating petitions involving specialized knowledge must ensure that the knowledge possessed by the

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<sup>2</sup> On appeal, counsel takes specific issue with the director's statement that not "all employees who hold special knowledge qualify as 'specialized knowledge' workers." Although the director used the phrase "special knowledge" instead of "specialized knowledge," it appears that she was referring to *Matter of Penner*, in which the Board of Immigration Appeals (BIA) explained that it was not the intent of Congress to qualify any worker with any amount of specialized knowledge for L-1B nonimmigrant classification. 18 I&N Dec. at 53. Moreover, even if the director meant to use the phrase "special knowledge," it is not incorrect to state that not all employees who hold special knowledge qualify as "specialized knowledge" workers. According to the regulations, it is only those employs who are proven to have "special knowledge of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets" who qualify. 8 C.F.R. § 214.2(l)(1)(ii)(D).

beneficiary is not general knowledge held commonly throughout the industry but that it is truly specialized." Puleo memo, *supra*. 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 not general knowledge held commonly throughout the industry but that it is truly specialized. *Id.* The analysis for specialized knowledge therefore requires a review 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.

Counsel claims that the director erred by attempting to compare the beneficiary's knowledge with those of other workers employed within the petitioner's group of companies. Counsel's assertion is not persuasive. While the decisions cited above pre-date the 1990 amendment to the definition of "specialized knowledge," it has been noted above that Congress's 1990 amendments to the Act did not specifically overrule *1756, Inc.*, nor any administrative precedent decision, nor did the 1990 amendments otherwise mandate a less restrictive interpretation of the term "specialized knowledge." The House Report, which accompanied the 1990 amendments, stated:

One area within the L visa that requires more specificity relates to the term "specialized knowledge." Varying interpretations by INS have exacerbated the problem. The bill therefore defines specialized knowledge as special knowledge of the company product and its application in international markets, or an advanced level of knowledge of processes and procedures of the company.

H.R. Rep. No. 101-723(I), 1990 U.S.C.C.A.N. 6710, 6749, 1990 WL 200418. As previously noted, the statutory definition states, "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 knowledge of processes and procedures of the company." 8 U.S.C. § 1184(c)(2)(B).

Prior to the Immigration Act of 1990, the statute did not provide a definition for the term specialized knowledge. Instead, the regulations defined the term as follows:

"Specialized knowledge" means knowledge possessed by an individual whose advanced level of expertise and proprietary knowledge of the organizations' product, service, research, equipment, techniques, management or other interests of the employer are not readily available in the United States labor market. This definition does not apply to persons who have general knowledge or expertise which enables them merely to produce a product or provide a service.

8 C.F.R. § 214.2(l)(1)(ii)(D)(1990).

Although the Immigration Act of 1990 provided a statutory definition of the term "specialized knowledge," Congress did not give any indication that it intended to expand the field of aliens that qualify as possessing specialized knowledge. Although the statute omitted the term "proprietary knowledge" that was contained in the regulations, the statutory definition still calls for "special knowledge" or an "advanced level of knowledge," similar to the original regulation. Neither the 1990 House Report nor the amendments to the statute indicate that Congress intended to expand the visa category beyond the "key personnel" that were originally mentioned in the 1970 House Report. Considered in light of the original 1970 statute and the 1990 amendments, it is clear that Congress intended for the class of nonimmigrant L-1 aliens to be narrowly drawn and carefully regulated, and to this end provided a specific statutory definition of the term "specialized knowledge" through the Immigration Act of 1990.

The Puleo memorandum, although issued after the 1990 amendment, does not differ significantly from previous CIS guidance on this issue, other than removing the requirement that a beneficiary's specialized knowledge be proprietary or unique. For example, the memorandum indicates that one possible characteristic of an employee who possesses specialized knowledge is that the individual "has been utilized abroad in a capacity involving significant assignments which have enhanced the employer's productivity, competitiveness, image or financial position." Puleo memo, *supra*. While the language differs from previous interpretations, this criterion is another way of stating that the petitioner may establish a beneficiary's specialized knowledge credentials by submitting evidence that the beneficiary is a "key employee." Accordingly, counsel's argument that CIS is prohibited from comparing the beneficiary's knowledge to that of similarly employed workers within the petitioner's international group is not persuasive, and the AAO will consider whether the beneficiary qualifies as "key personnel" in its analysis.

In this case, the record does not contain evidence that the beneficiary is regarded as a crucial or key employee. For instance, the beneficiary is not distinguished from other customer service employees trained by the petitioner. The beneficiary has been through a training program of nine months and has been employed by the petitioner for just over a year. Without evidence indicating that the beneficiary is regarded as a key or crucial employee, it is not clear that the beneficiary meets the narrowly tailored class of individuals intended to receive L classification. In addition, although counsel refers to the beneficiary as an expert by virtue of the standard training received in the petitioner's business procedures, the record fails to establish that the beneficiary is anything more than a normal, trained employee. In order to receive this classification the specialized knowledge has to be in the context of those in the particular industry and within the petitioning entity itself to such a degree that the employee would qualify as key or crucial personnel with uncommon or noteworthy knowledge. Again, the beneficiary's training is not distinguishable from other employees within the company, and the petitioner has not articulated how the beneficiary's knowledge is distinct from other similarly situated employees within the industry. As such, the beneficiary's routine training, which appears to be common to all similarly employed persons within the company, does not qualify him as a key or crucial employee, and without further distinction or evidence in the record regarding the beneficiary as a key or crucial employee it cannot be concluded otherwise.

In addition, the beneficiary is a trained employee who fills a position that the petitioner considers important, but the evidence does not show that the position is dependent on that particular employee filling it. The knowledge possessed by the beneficiary has not been demonstrated to be specialized, such that the U.S.

position could not be filled by other similarly trained employees of the petitioner. In other words, the record does not distinguish this knowledge from the basic knowledge of other customer support specialists with the petitioner and in fact claims that it does not have to. In addition, the petitioner has not distinguished the beneficiary's training and experience from that of other publishing software/support companies in the industry. The AAO acknowledges that the petitioner has repeatedly submitted sales material on its business topology and has extensively quoted the same sales material in its letters to CIS. However, these materials are not probative as they are not specific to the beneficiary and do not explain or support distinctions of the petitioner's product/service or its processes and procedures within the industry. Without an articulated basis of distinction within the particular industry or within the petitioner itself, CIS cannot determine that the beneficiary's knowledge surpasses the usual, is peculiar to the beneficiary, or is uncommon and noteworthy.

Moreover, the beneficiary is not alleged to have developed the product, or even to be involved in the maintenance of the code. Thus, it is not clear from the record that this beneficiary has knowledge that is particularly valuable to the petitioner's competitiveness in the market place beyond that of any other important employee within the organization. It has not been asserted or established that the beneficiary has knowledge of foreign operating conditions. The record does not support that the beneficiary has been utilized abroad in a capacity that involves significant assignments, and instead suggests that the beneficiary has been undergoing standard training to provide the software support services of the petitioner.

Accordingly, the petitioner's claim fails on an evidentiary matter. Contrary to counsel's assertions, it was reasonable for the director to request information regarding the petitioner's proprietary technologies, other similarly employed workers within the U.S. and foreign entities, and other evidence that would set the beneficiary's knowledge of the products/services and processes and procedures of the company apart from the knowledge possessed by others within the petitioner's family of companies.

The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. 8 C.F.R. § 214.2(l)(3)(viii). The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The 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).

In this matter, the petitioner asserts that the beneficiary's knowledge of the customer base distinguishes the beneficiary among other employees. There is no corroborating evidence of this in the record however. The petitioner did not provide any probative evidence of this advanced knowledge, nor did it clearly articulate exactly how the beneficiary acquired this knowledge given the short period of employment, supposedly in a specialized knowledge capacity, following a period of standard, indistinguishable training. The petitioner also failed to make clear the nexus between the beneficiary's knowledge of a particular customer base and any specialized knowledge duties that will be performed in the United States. Although knowledge need not be narrowly held within an organization in order to be specialized knowledge, the L-1B visa category was not created in order to allow the transfer of employees with any degree of knowledge of a company's products and processes. Similarly, as discussed above, the petitioner failed to provide any detailed information regarding the beneficiary's assignments with the foreign entity, which would establish that his duties were advanced or different from those performed by other customer services managers. The lack of evidence in the

record makes it impossible to classify the beneficiary's knowledge of the petitioner's products or procedures as advanced, and precludes a finding that the beneficiary's role is "of crucial importance" to the organization. While it may be correct to say that the beneficiary is a highly skilled and experienced employee, the petitioner has not established that the beneficiary rises to the level of a specialized knowledge or "key" employee, as contemplated by the statute. *See Matter of Penner*, 18 I&N Dec. at 53.

Finally, the AAO will address counsel's claim that the beneficiary qualifies for classification as a specialized knowledge employee pursuant to characteristics outlined in the 1994 Puleo memo, specifically, that the knowledge he possesses is required to "sell, manufacture, or service the product is different from the other products to the extent that the United States or foreign firm would experience a significant[t] interruption of business in order to train a new worker to assume those duties." Puleo memo, *supra*. While the factors discussed in the Puleo memorandum may be considered, the regulations specifically require that the beneficiary possess an "advanced level of knowledge" of the organization's processes 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 discussed above, the petitioner has not established that the beneficiary's knowledge rises to the level of specialized knowledge contemplated by the regulations.

Regardless, the petitioner's and counsel's claims regarding the beneficiary's qualifications for this visa classification, in general, are not supported by evidence. As stated in the 1994 Puleo memorandum:

[T]he mere fact that a petitioner alleges that an alien's knowledge is somehow different does not, in and of itself, establish that the alien possesses specialized knowledge. The petitioner bears the burden of establishing *through the submission of probative evidence that the alien's knowledge is uncommon, noteworthy, or distinguished by some unusual quality* and not generally known by practitioners in the alien's field of endeavor. Likewise, a petitioner's assertion that the alien possesses an advanced level of knowledge of the processes and procedures of the company *must be supported by evidence describing and setting apart that knowledge from the elementary of basic knowledge possessed by others*. It is the weight and type of evidence which establishes whether or not the beneficiary possesses specialized knowledge.

Puleo memo, *supra* (emphasis added).

Based on the minimal evidence submitted to establish the beneficiary's claimed specialized knowledge, and the failure to differentiate through the submission of evidence the beneficiary's knowledge from that of other similarly employed customer service personnel within the company, the petitioner has not established that the beneficiary's knowledge can be considered truly "special." Nor has the petitioner established that the beneficiary's knowledge is "advanced" such that it can be distinguished from the knowledge possessed by others within the petitioner's organization. Accordingly the beneficiary may not be considered "key personnel."

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, supra* at 16. The record does not establish that the beneficiary possesses specialized knowledge or that the position offered with the United States entity requires specialized knowledge.

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.

**ORDER:** The appeal is dismissed.