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U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
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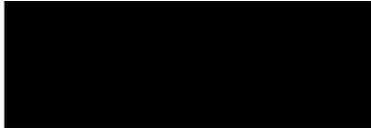


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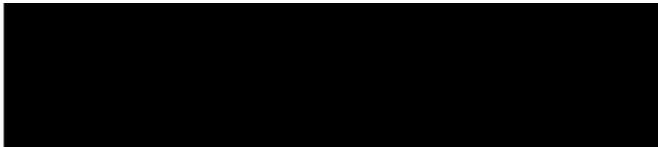
FILE: WAC 08 085 50647 Office: CALIFORNIA SERVICE CENTER Date:

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)

ON 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting 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 is engaged in the provision of global travel services. It seeks to temporarily employ the beneficiary as a travel specialist, and filed a petition to classify the beneficiary as a nonimmigrant intracompany transferee with specialized knowledge. The director denied the petition, finding that the petitioner had not established that the beneficiary possesses specialized knowledge or that the proffered position requires specialized knowledge.

On appeal, counsel submits a brief and asserts that the director's decision was erroneous. Specifically, counsel contends that the director imposed an improperly strict definition of specialized knowledge.

To establish L-1 eligibility, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). Specifically, within three years preceding the beneficiary's application for admission into the United States, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

The regulation at 8 C.F.R. § 214.2(l)(3) further states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

This matter presents two related, but distinct, issues: (1) whether the beneficiary possesses specialized knowledge; and, (2) whether the proposed employment is in a capacity that requires specialized knowledge.

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

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines "specialized knowledge" as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

As stated above, the petitioner seeks to employ the beneficiary temporarily in the United States as a travel specialist. On the L Classification Supplement to Form I-129, filed on February 1, 2008, the petitioner briefly stated that "the beneficiary holds a Bachelor's degree from Obirin University in Tokyo, Japan. She has been employed by [the foreign entity] in Japan since September 1999 with a short [interruption]. She also has several years of professional work experience at various companies prior to 1999."

The petitioner also submitted a letter of support dated January 28, 2008, which provided an overview of the beneficiary's qualifications and the proposed position. Regarding the petitioner's business, the letter explained that the petitioner is one of the largest and more diversified travel agencies in the world, with 150 affiliated companies and 1,000 offices in Japan as well as 73 overseas offices. The petitioner claimed to employ 25,000 people.

Regarding the specialized knowledge of the proposed position in the United States, the petitioner stated:

[The beneficiary] will be required to utilize all of her extensive knowledge for sales methods and strategies and [the petitioner's] unique and special travel services and products, as well as specially developed travel information management systems, gained through her employment within [the foreign entity's organization], in order to be engaged in full range and unique custom designed travel services of [the petitioner], provided to both corporate and individual accounts in the United States. [The beneficiary] will research, plan and develop specialized new travel programs and itineraries by utilizing detailed knowledge of the needs of [the petitioner] client groups based upon their specific requirements which were custom programmed. In particular, her specialized responsibilities will include: reviewing and analyzing the customized travel programs and procedures of implementing travel services, and making suggestions to management in order to maintain [the petitioner's] unique and competitive level of services and standards; planning and promoting [the petitioner's] travel services and specially customized travel programs; researching and analyzing operational data and clients data to promote sales of [the petitioner's] travel programs to visit Japan and other Asian countries; determining the point of improvements and modifications in order to make proposals to individual and corporate clients to meet each client requirements;

researching, planning and developing specialized new travel programs and itineraries by utilizing detailed knowledge of the needs of JTB client groups, as well as customized travel programs based upon our pre-arranged contractual arrangements, which are custom programmed for our clients; communicating with clients with regard to [the petitioner's] customized travel services and programs, as well as advising them on current conditions and issues with respect of the travel requirements; developing procedures for client communications related to conditions of our travel services with inter-related personnel and divisions within the global [petitioner's] organization, including sales and marketing personnel of [the foreign entity]; and reporting to the top management on its strategies and progress of customized corporate travel service activities.

The petitioner concluded by claiming that the duties of this position could not be performed by anybody who had not worked for the petitioner's international organization.

Regarding the beneficiary's knowledge and experience with the foreign entity, the petitioner stated:

[The beneficiary] was intensively engaged in the full range of unique travel services of [the foreign entity], including airline and other transportation ticket sales, package tour sales, hotel reservations, tourist visa arrangement by using our proprietary computer systems. She was also responsible for preparing written reports and data summaries to clients in print or e-mail format outlining options, price, and other costing variables, and adjusting and reformulating client context and arrangements based on information and data from field and responding to specific client inquiries or requesting modification.

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Since April 2005, [the beneficiary] has been serving at [the foreign entity's] wholly-owned subsidiary company in Japan . . . in the position of Assistant Sales Manager for the Sales Division, North American-Pan Pacific Team. In this specialized capacity, [the beneficiary] is required to utilize her in-depth knowledge of [the company's] unique travel services and programs, as well as operational goals, policies, strategies, procedures and networks, to carry out the professional and specialized job duties, including: managing the travel operations with travel agencies on the East Coast of the United States as well as their accounts; analyzing travel and related needs of clients to determine optimal arrangements based on booking prices, special negotiated supplier's arrangements and current market conditions; managing accounts receivable, and gathering data on clients' preference, as well as competitors, and analyzing prices, sales estimate, and methods of marketing.

[The beneficiary] has been responsible for directing the promotion of packaged tours to Japan, such as [the company's] specialized sightseeing tours, cruise tours, VIP tours and SIT tours from the United States; analyzing clients' and market's needs in order to promote interest of [the petitioner's] travel products and services; planning and organizing promotional events and activities for clients to generate interest in the company's travel

products; developing our services and solutions to meet customer needs and expectations; analyzing itinerary of tour packages and promotional travel incentives offered by various travel carriers; developing sales strategies for [the company's] bus tour targeted to foreign visitors. . . .

Moreover, regarding its services, the petitioner stated:

[The petitioner] has developed proprietary computer systems called POPS, TRIPS, and Front System, which form the company's core ability to manage clients' accounts and data, detail information of our travel products, sales status and estimates, budgets and statistical/financial records, billings, accounts, external on-line reservation systems and other key functions of [the petitioner's] business operations. Through the many years of experience with [the petitioner's] organization in Japan, [the beneficiary] gained detailed and proprietary specialized knowledge in connection with the above-mentioned uniquely designed [petitioner's] computer systems; [the petitioner's] clients' requirements for travel program development; [the petitioner's] internal company policies, objectives, and business operational procedures; [the petitioner's] marketing goals and targets, strategies, and procedures, which are specific to each travel program; [the petitioner's] operational internal and external networks; [the petitioner's] global client network, their travel patterns and requirements; research and development methodologies of new travel programs for [the petitioner's] clients. The above mentioned detailed specialized knowledge is uniquely developed by [the petitioner] and is specific to [the petitioner's] services and global clients. Therefore, it is not available to anyone outside the organization.

(Emphasis in original).

The director found this evidence insufficient to establish the beneficiary's eligibility, and issued a request for additional evidence on February 8, 2008. Specifically, the director requested information establishing the beneficiary's specialized knowledge, such as how her duties differed from other employed by the petitioner, and how the beneficiary's training and experience is uncommon, noteworthy, or distinguished, and not generally known by practitioners in the field. The director also requested that the petitioner indicate the number of similarly employed workers assigned to the U.S. location where the beneficiary will work. Finally, the director emphasized that the petitioner's statements and explanations should be supported by documentary evidence.

In a letter dated February 13, 2008, the petitioner addressed the director's requests. First, the petitioner explained the beneficiary would be working in two of its United States offices: one in Rolling Meadows, Illinois and the second, a new office in Cincinnati, Ohio. The petitioner noted that the new Cincinnati office require a professional employee such as the beneficiary to lead the operation of this new office. In a letter dated February 14, 2008, counsel acknowledged that existing personnel and employees in the United States "have a similar high level specialized and proprietary knowledge," but are not available to work in the newly-opened Cincinnati office.

Regarding the beneficiary's special or advanced duties, the petitioner stated:

The Travel Specialist experience [the beneficiary] gained through [the foreign entity] is completely proprietary and exclusive to [the petitioner], which distinguishes her from other specialized professional positions within our organization, as well as other professionals in similar specialized positions with other companies within the travel industry. In order to establish and develop our business operations at our new Cincinnati office, [the beneficiary] will focus on developing [the company's] custom designed travel products, especially personalized and packaged tours to Japan and other Asian countries, as well as promoting the sales of these . . . uniquely customized travel products. To specifically address the issue raised in the RFE which inquires into to [sic] how the duties of [the beneficiary] differ from other workers employed by our company or other U.S. employers, we note that the duties of [the foreign entity's] Travel Specialists in Japan and in the U.S. are fundamentally similar for those specialized workers employed and trained by [the foreign entity] for this type of position. We note, however, there is a substantial difference between [the beneficiary's] duties (as Travel Specialist as performed in Japan and as will be performed in the U.S.) and those of workers from other employers in Japan and in the U.S. The difference is that the Travel Specialists position of the beneficiary is required to utilize highly specialized knowledge of [the petitioner's] internal sales methods and marketing strategies and in-depth knowledge of the company's unique custom designed and special travel services and products, as well as our travel information management systems specifically developed within our organization for the implementation and execution of these products. Workers from other companies occupied in this type of position do not possess this knowledge, since the above specialized knowledge is only available to employees of our organization. . . .

(Emphasis in original).

The petitioner also submitted a training handbook / manual as evidence of the training the beneficiary received. The petitioner noted that "all individuals performing specialized duties including that of Travel Specialist are provided intensive high-level training pertaining to internal procedures, protocol, business models, key service providers and operational standards." The petitioner claimed that only employees trained by the organization will have detailed and complex knowledge needed to operate within the company's internal systems and procedures.

On February 27, 2008, the director denied the petition. Specifically, the director found that the petitioner failed to specifically document how the beneficiary's knowledge was different from other similarly-trained employees within the organization, since they all appeared to receive the same training and thus possessed the claimed specialized knowledge. Additionally, the director noted that the petitioner had failed to establish that the actual duties of the position required specialized knowledge.

On appeal, counsel claims that contrary to the director's conclusions, there is no requirement that knowledge be rare or closely held within an organization. Counsel asserts that the beneficiary's knowledge is special, advanced, and not available outside of the petitioning organization.

Upon review, the AAO concurs with the director's decision.

As enacted by the Immigration Act of 1990, section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

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.

Looking to the plain language of the statutory definition, Congress has provided USCIS with an ambiguous definition of specialized knowledge. Although *1756, Inc. v. Attorney General* was decided prior to enactment of the Immigration Act of 1990, the court's discussion of the ambiguity in the former INS definition is equally illuminating when applied to the definition created by Congress:

This ambiguity is not merely the result of an unfortunate choice of dictionaries. It reflects the relativistic nature of the concept special. An item is special only in the sense that it is not ordinary; to define special one must first define what is ordinary. . . . There is no logical or principled way to determine which baseline of ordinary knowledge is a more appropriate reading of the statute, and there are countless other baselines which are equally plausible. Simply put, specialized knowledge is a relative and empty idea which cannot have a plain meaning. *Cf. Westen, The Empty Idea of Equality*, 95 Harv.L.Rev. 537 (1982).

745 F.Supp. 9, 14-15 (D.D.C., 1990).

In effect, Congress has charged the agency with making a comparison based on a relative idea that has no plain meaning. To determine what is special, USCIS must first determine the baseline of ordinary.

While Congress did not provide explicit guidance for what should be considered ordinary knowledge, the canons of statutory interpretation provide some clue as to the intended scope of the L-1B specialized knowledge category. *NLRB v. United Food & Commercial Workers Union, Local 23*, 484 U.S. 112, 123 (1987) (citing *INS v. Cardoza-Fonseca*, 480 U.S. 421, 107 S.Ct. 1207, 94 L.Ed.2d 434 (1987)).

First, it is instructive to look at the common dictionary definitions of the terms "special" and "advanced." According to Webster's New World College Dictionary, the word "special" is commonly found to mean "of a kind different from others; distinctive, peculiar, or unique." *Webster's New World College Dictionary*, 1376 (4th Ed. 2008). The dictionary defines the word "advanced" as "ahead or beyond others in progress, complexity, etc." *Id.* at 20.

Second, looking at the term's placement within the text of section 101(a)(15)(L), the AAO notes that specialized knowledge is used to describe the nature of a person's employment and that the term is listed among the higher levels of the employment hierarchy with "managerial" and "executive" employees. Based on the context of the term within the statute, the AAO would expect a specialized knowledge employee to be

an elevated class of workers within a company and not an ordinary or average employee. *See 1756, Inc. v. Attorney General*, 745 F.Supp. 9, 14 (D.D.C., 1990).

Third, the legislative history indicates that the original drafters intended the class of aliens eligible for the L-1 classification would be "narrowly drawn" and "carefully regulated and monitored" by USCIS. *See generally* H.R. Rep. No. 91-851 (1970), reprinted in 1970 U.S.C.C.A.N. 2750, 2754, 1970 WL 5815. The legislative history of the 1970 Act plainly states that "the number of temporary admissions under the proposed 'L' category will not be large." *Id.* This legislative history has been widely viewed as supporting a narrow reading of the definition of specialized knowledge and the L-1 visa classification in general. *See 1756, Inc. v. Attorney General*, 745 F.Supp. at 15-16; *Boi Na Braza Atlanta, LLC v. Upchurch*, Not Reported in F.Supp.2d, 2005 WL 2372846 at *4 (N.D.Tex., 2005), *aff'd* 194 Fed.Appx. 248 (5th Cir. 2006); *American Auto. Ass'n v. Attorney General*, Not Reported in F.Supp., 1991 WL 222420 (D.D.C. 1991); *Fibermaster, Ltd. v. I.N.S.*, Not Reported in F.Supp., 1990 WL 99327 (D.D.C., 1990); *Delta Airlines, Inc. v. Dept. of Justice*, Civ. Action 00-2977-LFO (D.D.C. April 6, 2001)(on file with AAO).

Although the Immigration Act of 1990 provided a statutory definition of the term "specialized knowledge," the definition did not expand the class of persons eligible for L-1B specialized knowledge visas. Pub.L. No. 101-649, § 206(b)(2), 104 Stat. 4978, 5023 (1990). Instead, the legislative history indicates that that Congress created the statutory definition of specialized knowledge for the express purpose of clarifying a previously undefined term from the Immigration Act of 1970. H.R. Rep. 101-723(I) (1990), reprinted in 1990 U.S.C.C.A.N. 6710, 6749, 1990 WL 200418 ("One area within the L visa that requires more specificity relates to the term 'specialized knowledge.' Varying interpretations by INS have exacerbated the problem."). While the 1990 Act declined to extend the "proprietary knowledge" and "United States labor market" references that had existed in the existing agency definition, there is no indication that Congress intended to liberalize the L-1B visa classification.

If any conclusion can be drawn from the ultimate statutory definition of specialized knowledge and the changes made to the legacy INS regulatory definition, the point would be based on the nature of the Congressional clarification itself. Prior to the 1990 Act, legacy INS pursued a bright-line test of specialized knowledge by including a "proprietary knowledge" element in the regulatory definition. *See* 8 C.F.R. § 214.2(l)(1)(ii)(D) (1988). By deleting this element in the ultimate statutory definition and further emphasizing the relativistic aspect of "special knowledge," Congress created a standard that requires USCIS to make a factual determination that can only be determined on a case-by-case basis, based on the agency's expertise and discretion. Rather than a bright-line standard that would support a more rigid application of the law, Congress gave legacy INS a more flexible standard that requires an adjudication based on the facts and circumstances of each individual case. *Cf. Ponce-Leiva v. Ashcroft*, 331 F.3d 369, 377 (3d Cir. 2003) (quoting *Baires v. INS*, 856 F.2d 89, 91 (9th Cir.1988)).

Accordingly, as a baseline, the terms "special" or "advanced" must mean more than simply skilled or experienced. By itself, work experience and knowledge of a firm's technically complex products will not equal "special knowledge." *Matter of Penner*, 18 I&N Dec. 49, 53 (Comm. 1982). Specialized knowledge requires more than a short period of experience, otherwise "special" or "advanced" knowledge

would include every employee in an organization with the exception of trainees and entry-level staff. If everyone in an organization is specialized, then no one can be considered truly specialized.

Considering the definition of specialized knowledge, it is the petitioner's fundamental burden to articulate and prove that an alien possesses "special" or "advanced" knowledge. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

After articulating the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. 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 or basic knowledge possessed by others. Because "special" and "advanced" are comparative terms, the petitioner should provide evidence that allows USCIS to assess the beneficiary's knowledge relative to others in the petitioner's workforce or relative to similarly employed workers in the petitioner's industry.

In examining the specialized knowledge capacity of the beneficiary, the AAO will look 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 job description of the services to be performed sufficient to establish specialized knowledge. In this case, the petitioner fails to establish that the beneficiary's proposed position in the United States requires an employee with specialized knowledge or that the beneficiary has specialized knowledge.

In the present matter, the petitioner has provided a somewhat generic description of the beneficiary's intended employment with the U.S. entity. Specifically, the petitioner asserts that the main duties of the beneficiary's proposed position include such duties as "directing the promotion of packaged tours to Japan," "analyzing clients' and market's needs in order to promote interest of [the petitioner's] travel products and services;" "planning and organizing promotional events and activities for clients;" and "developing sales strategies." In addition, the petitioner indicates that the beneficiary will be responsible for a wide array of travel services such as booking airline tickets and making hotel reservations.

The petitioner, however, has not sufficiently documented how the beneficiary's performance of the proposed job duties distinguishes her knowledge as specialized. The petitioner repeatedly states throughout the record that no one outside the employment of the petitioner's enterprise could perform the beneficiary's duties. However, the petitioner fails to explain why these duties, which include making hotel reservations and performing marketing duties, are so special and advanced that one could only perform such tasks through employment with its enterprise.

As stated above, it is the petitioner's fundamental burden to articulate and prove that an alien possesses "special" or "advanced" knowledge. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner

does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

No details were provided regarding the type of specific training, if any, the beneficiary received during her employment with the foreign entity. Moreover, the petitioner, in response to the request for evidence, submits a training manual and claims that the manual contains the specifics of the training received by the beneficiary and claims that this training formed the basis of her specialized knowledge within the organization. The record, however, is void of any evidence or documentation that would establish that the beneficiary actually completed this or any other form of training.

A review of the manual, which the petitioner claim is its company training manual, reveals the entire document is merely an overview of the use of Sabre®, a proprietary line of technology developed by Sabre, Inc. that services travel agencies directly.¹ The technology is available to travel agencies throughout the world; therefore suggesting that any other person employed with a travel agency using this system or product is just as skilled as the beneficiary. In fact, it appears from the language of the February 13, 2008 letter that the petitioner intended USCIS to accept this manual as a proprietary system of the petitioner not available to others outside the organization. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The petitioner has failed to discuss how the beneficiary's training and usage of the Sabre® technology, a product readily available to travel agencies throughout the world, renders her knowledge special or advanced. Moreover, the petitioner has failed to go into detail with regard to the technology used by the petitioner or any products or ideas that were created or contributed to by the beneficiary. The petitioner provides no details regarding any aspects of the petitioner's business which would distinguish the petitioner's services as special and thus suggest that the beneficiary's knowledge was likewise special or advanced. Merely claiming that no other companies possess the knowledge of the petitioner's employees, without documentation in the form of specific training completed, achievements or accomplishments within the field, is simply insufficient to satisfy the petitioner's burden of proof in this matter. 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)). Mere familiarity with a company's products or processes does is insufficient to establish that the beneficiary possesses specialized knowledge.

Moreover, the petitioner claims that it has developed proprietary computer systems called POPS, TRIPS, and Front System, which form the company's core ability to manage clients' accounts and data. The petitioner further claims that the beneficiary gained familiarity with these systems through his many years of experience with the foreign organization in Japan. However, the petitioner provides no additional information regarding how the beneficiary utilizes these alleged proprietary systems in a specialized knowledge capacity, nor does the petitioner provide documentation to support the contentions. As stated

¹ See http://www.sabretravelnetwork.com/products/travel_agencies/prodIndex.html

above, 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.

The petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge in the travel industry is more special or advanced than the knowledge possessed by others employed by the petitioner, or in the industry. It is clear that the petitioner considers the beneficiary to be an important employee of the organization. The AAO, likewise, does not dispute the fact that the beneficiary's knowledge has allowed her to competently perform her job in the foreign entity. However, the successful completion of one's job duties does not establish possession of specialized knowledge or establish employment that requires specialized knowledge.

The director found that the petitioner employs thousands of persons who receive the same training as the beneficiary, and the AAO concurs with this finding based on the petitioner's failure to provide documentation that the beneficiary's training or experience differs from these many other employees. Notably, counsel for the petitioner relies on the premise that knowledge does not need to be closely held or rare within the organization; however, the record as it currently stands fails to demonstrate that the beneficiary's knowledge, in relation to the thousands of others trained and employed by the petitioner, is actually "special" or "advanced." As previously discussed, the terms "special" or "advanced" must mean more than simply skilled or experienced. By itself, work experience and knowledge of a firm's technically complex products will not equal "special knowledge." *Matter of Penner*, 18 I&N Dec. at 53. Specialized knowledge requires more than a short period of experience, otherwise "special" or "advanced" knowledge would include every employee in an organization with the exception of trainees and entry-level staff. If everyone in an organization is specialized, such as the petitioner's thousands of employees, then no one can be considered truly specialized.

On appeal, however, counsel for the petitioner ignores this apparent discrepancy and relies on a March 9, 1994 guidance memorandum from [REDACTED], Acting Executive Associate Commissioner, later re-affirmed by a memorandum from [REDACTED] Associate Commissioner for Service Center Operations dated December 20, 2002. Specifically, counsel relies on the memorandum's omission of the word "unique," and asserts that the memo does not require that knowledge be narrowly held within a company, but merely that it be advanced knowledge. In addition, counsel points out that specialized knowledge can include knowledge of a product that is significantly different from others in the industry although it may have similarities. Counsel, however, failed to provide sufficient evidence to support its contentions that the beneficiary's knowledge was so advanced that the numerous other employees receiving the same training and sharing his same position would not perform his stated duties. Again, 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). Moreover, counsel overlooks the fact that the Sabre® system used by the petitioner is used throughout the travel industry and is widely available to travel agencies throughout the world, thereby negating counsel's claim that knowledge of such systems alone constitutes specialized knowledge specific to the petitioning organization.

For this reason, the proposed U.S. position does not appear to require specialized knowledge. While the position of Travel Specialist may require a comprehensive knowledge of the travel industry and the

petitioner's operations, such knowledge is likewise required as every other travel agency in this world. Therefore, there is no documentation, other than the petitioner's and counsel's assertions, that the beneficiary must possess advanced, "specialized knowledge" as defined in the regulations and the Act. As previously stated, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. at 534; *Matter of Laureano*, 19 I&N Dec. 1; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506.

Based on the evidence presented, it is concluded that the beneficiary does not possess specialized knowledge, nor would the beneficiary be employed in a capacity requiring specialized knowledge. 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.

ORDER: The appeal is dismissed.