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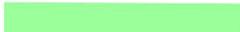
U.S. Citizenship  
and Immigration  
Services



Date: **APR 01 2013**

Office: VERMONT SERVICE CENTER

FILE: 

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont 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 classify the beneficiary as an L-1B nonimmigrant intracompany transferee 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 Pennsylvania corporation, operates a computer software development and consultancy services business. The petitioner claims to be the parent company of the beneficiary's foreign employer, [REDACTED] located in India. The petitioner seeks to employ the beneficiary as its technical lead for quality assurance for a period of three years and indicates that he will work off-site at the Massachusetts worksite of the petitioner's client, [REDACTED] ("the unaffiliated employer").

The director denied the petition, concluding that the petitioner failed to establish the beneficiary possesses specialized knowledge or that he has been or will be employed in a specialized knowledge capacity.

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, the petitioner contends the director mischaracterized the nature of the beneficiary's specialized knowledge, erred in requiring that the beneficiary's specialized knowledge be embodied in the petitioner's stand-alone product, and denied the petition based on unsupported conclusions regarding the number of L-1B classification petitions filed by the petitioning company.

### I. The Law

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 the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the U.S. temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate.

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

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.

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 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.

### I. The Issue on Appeal

The sole issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge and will be employed in the United States in a specialized knowledge capacity.

The petitioner is a software development company with 345 employees in the United States and 7,710 employees worldwide. The Form I-129 indicated the company has a gross annual income of \$571,800,000.

The petitioner stated that the beneficiary joined the foreign entity as a senior Quality Assurance Engineer in May 2006, and currently holds the position of Quality Assurance Lead. The petitioner indicated that the beneficiary had been assigned to the offshore portion of the [REDACTED] and [REDACTED] project for the unaffiliated employer for approximately six months as of the date of filing. The petitioner explained that the [REDACTED] the client's flagship product, is a [REDACTED] and Java based application and uses XML based object recognition methodology to seamlessly identify the embedded [REDACTED] and HTML objects."

The petitioner described how the beneficiary will be responsible for determining all custom objects in the client's [REDACTED] and Java based application, [REDACTED], to provide complete object recognition capability, access to the source code, cross platform capability, and a friendly user interface. The petitioner also stated that the beneficiary will work as a bridge between the petitioner and the client, finalizing the generic automation framework to support the client's product line using the petitioner's [REDACTED]

The petitioner states that the beneficiary completed two weeks of classroom training followed by six months of practical training on the [REDACTED], and emphasized that only one percent of petitioner's software engineers have expertise with the company's "very new proprietary tool." The petitioner states that the beneficiary's specialized knowledge is evidenced by his university degree, his almost nine years of experience in automation testing including five years of automation testing with the petitioner's subsidiary, his training and in-depth knowledge of the company's [REDACTED] and in-depth knowledge of the client's [REDACTED] project. The petitioner provided a copy of the beneficiary's Provisional Degree Certificate in Mechanical Engineering with a Statement of Marks from the [REDACTED] [REDACTED] and an employment offer and promotion letter corroborating the beneficiary's dates of employment and position titles held with the foreign subsidiary.

The petitioner submitted product information which describes the [REDACTED] as a mechanism to automate functional test cases that provides near 100% test coverage and leverages the [REDACTED] automation API and the [REDACTED] event based model for object recognition simplifying test scripting and providing standardization commands without the need for code instrumentation to enable automation or the need to embed any code API or copy any files to the domain of the application. The petitioner indicates that few [REDACTED] automation tools support [REDACTED]-based functional automation, while its tool overcomes these shortcomings. The petitioner stated that its client "will benefit from the use of the [REDACTED] with the reduction in the testing cycle which will ensure faster turnaround and quicker product release to the market."

The director issued a Request for Evidence ("RFE"). The director observed that the initial evidence did not establish that the beneficiary had been or would be employed in a specialized knowledge capacity, what specialized knowledge the beneficiary possesses, or how he attained the claimed specialized knowledge. The director instructed the petitioner to submit additional evidence to address these concerns.

In response to the RFE, the petitioner emphasized that it has been asked by the U.S. client to "use our proprietary [REDACTED] to help automate the testing process for their flagship product, [REDACTED]." The petitioner provided the following explanation stating the beneficiary's duties relate to the [REDACTED] as follows:

1. Work with Business users to understand business requirements and help them understand how technology tradeoffs influence strategy.

In order to perform this job duty, the Technical Lead must possess a deep expertise in the [REDACTED] features, scripting and data parameterization techniques.

This knowledge will enable him to create a POC (Proof of Concept) for the comprehensive test automation solution.

By this way Technical Lead will showcase how best the [redacted] can satisfy the business needs or [the client].

2. Develop proposals and plan based on scope and cost estimates.

To fulfill this job duty the Technical Lead must possess an expert comprehension of [redacted] framework design/Architecture along with experience on the similar projects, because he needs to analyze the efforts and cost required to enhance/customize the core automation engine to suit the client needs.

3. Facilitates team and client meetings effectively.

To effectively perform this job duty the Technical Lead must have extensive knowledge of the [redacted] framework, because Framework defines how the tool will integrate with existing applications of the customer.

The Technical Lead must be able to explain/demonstrate the impact of proposed changes to the client's satisfaction.

4. Automate the application as per the client's specific requirements.

In order to perform this duty, the Technical Lead must have in-depth experience of [redacted] Front End, Application Server and Database because each client requirement is going to impact all these components. The Technical Lead must understand the impact of the changes on the overall performance of the software.

Our proprietary [redacted] accommodates changes in the ongoing testing cycles.

5. Involved in all the phases of the Software Development Life Cycle.

In order to perform this activity, the Technical Lead must have exhaustive knowledge of the architecture of [redacted] (A software product to precisely pinpoint student needs and accelerate learning with a powerful online reading program customized for every student. The all-new [redacted] and Instruction Reading is an effective combination of adaptive diagnostic assessment, engaging differentiated instruction, and instant reporting) and [redacted] helps monitor progress, plan developmentally appropriate instruction, and ensure that each child is prepared for the next levels) in order to gather the requirements and ensure that these requirements are met throughout the development life cycle.

Only a veteran software engineer who has advanced to Technical Lead will have this "big picture" expertise.

6. Involve in automating the testing process whenever applicable.

In order to ensure high quality of the developed product, the Technical Lead must possess a manifested experience on how to use our [REDACTED] framework to automate the functional tests and user acceptance tests on the enhanced application so that each component of [REDACTED] will be tested and automated.

7. Deliver engaging, informative, and well-organized presentations.

The Technical Lead must have in-depth technical knowledge of the features and the integration aspects of the [REDACTED] to demonstrate to the client, the functionalities of our product.

Again, only a Technical Lead possesses this breadth of knowledge.

8. Maintain awareness of new and emerging technologies and their potential application on client engagements.

The Technical Lead must have an in-depth technical knowledge of the limitations of our [REDACTED] so that he can figure out whether those [I]imitations can be overcome by using emerging technology. Using the scripting knowledge, he can come up with new ideas on how to integrate with the new application or system seamlessly.

The Technical lead must be current with emerging technologies and platforms to cater customer services according to market trends and support future upgrades. This will also include process improvements by adopting new tools/techniques in the care of Automation Testing and [REDACTED]

9. Keeps track of lessons learned and shares those lessons with team members and customers.

To perform this job duty, the Technical Lead must have worked on multiple projects using [REDACTED] because he can use his previous knowledge in effective planning and completing the current tasks by foreseeing the bottlenecks which can vary the cost and effort.

10. Manages day-to-day client interactions. Sets and manages client expectations.

To perform this job duty Technical Lead should be involved in the design, development, and testing phases of [REDACTED] because, he needs to explain the progress of the new features implemented in the [REDACTED] and how well it is integrating with client applications.

11. Constantly seeks opportunities to increase customer satisfaction and deepen the client relationship.

To perform this job duty the Technical Lead must extensively use the [REDACTED] as using this tool he will be able to quickly resolve any business logic issues with the automation scripts.

With expertise scripting and data parameterization, the Technical Lead can enhance the business logic which changes quite frequently with the new enhancements in the [REDACTED] application.

12. Builds a knowledge base of each client's business, organization, and objectives.

Again, only an experience Technical Lead can know how our [REDACTED] technology can contribute to the business success of applications.

The petitioner also provided letters from the human resource department stating that the beneficiary gained his specialized knowledge through his five years of employment with the company abroad and participation in "a number of high level proprietary training courses" including: 16 hours of Overview of Automation and [REDACTED]; 40 hours of [REDACTED]; and 40 hours of Advance [REDACTED]. The petitioner claims the beneficiary is one of a few select engineers who have been trained in the [REDACTED] and explains that the training involves over two weeks of practice exercises, practical sessions, and hands on implementation. The petitioner states the beneficiary's more advanced training in the software covered three additional topics: automating custom components, embedding [REDACTED] Agent at runtime, and [REDACTED] accessible behind an HTML page.

The petitioner stated that the test automation function on an application built primarily on [REDACTED] is "considerably more varied and complex when compared to test automation on usual web pages" due to the approach and the framework used in development. The petitioner claims that after the training period, a quality assurance expert must work with the practical application of the company's proprietary tool for at least six (6) months to reach the same level of experience as the beneficiary, and that the beneficiary's five (5) years of experience place him "within the elite of [the company's] Quality Assurance lead software engineers." The petitioner concluded by noting that "the [REDACTED] proprietary knowledge is based on both classroom training followed by years of post-training project experience."

The petitioner's response to the RFE also included a letter from the petitioner's client stating that the beneficiary gained "in-depth knowledge of our business domain while working with our team off-shore for the last six months." Further, the client noted that its [REDACTED] product uses [REDACTED] technology and that

"currently there are not many economical and effective tools that can help automate the testing of our product," which led the client to engage the petitioner to use its ]

The director ultimately denied the petition, concluding that the petitioner failed to establish that the beneficiary would be employed in a specialized knowledge position or that the beneficiary possesses specialized knowledge. In denying the petition, the director found that the 96 hours of training in the evidenced in the record is insufficient to establish that the beneficiary's training resulted in knowledge that is specialized or advanced.

The director also noted that the beneficiary would be working to automate the testing process for the client's product and stated that the petitioner did not indicate how much time would be spent performing duties that require the application of knowledge specific to the petitioner. However, the record suggested that the petitioner's specific software is only a small component of the client's product and the beneficiary's knowledge of the client's systems and products cannot be considered when determining eligibility for the requested nonimmigrant classification.

Additionally, the director stated that the beneficiary's specific experience with a particular international client or project does not establish that the beneficiary's knowledge is special or advanced. Finally, the director observed that the petitioner filed a number of petitions for workers with comparable training to the beneficiary, who were also claimed to possess knowledge of the and that knowledge of this tool does not appear to rise to the level of special or advanced knowledge among the petitioner's engineering staff.

On appeal, the petitioner asserts that the director mischaracterized the beneficiary's claimed specialized knowledge as gained through 96 hours of training rather than his five years of experience using the petitioner's products. The petitioner maintains that it provided "extensive proof" of the beneficiary's specialized knowledge and that the director "completely ignored" the beneficiary's five years of experience gained with the foreign entity.

The petitioner further contends that the director's assertion that a number of L-1B petitions were filed based on claimed specialized knowledge of the is incorrect and not supported by any petition receipt numbers.

The petitioner states that the description of the job duties and the explanation of how the petitioner's product would be used to perform the duties, as submitted in response to the RFE, indicates that the beneficiary would spend 100% of his time working with the petitioner's proprietary tool. The petitioner maintains that the director erred in requiring that the beneficiary's specialized knowledge be embodied in the petitioner's own stand-alone product.

### III. Analysis

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge or that he would be employed in the United States in a

specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In order to establish eligibility, the petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts or prongs. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." *See also* 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

As both "special" and "advanced" are relative terms, determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others in the petitioning company and/or against others holding comparable positions in the industry. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary's knowledge or expertise is special or advanced, and that the beneficiary's position requires such knowledge.

In the present case, the petitioner's claims are based on the first prong of the statutory definition, asserting that the beneficiary has a special knowledge of the company's products and their application in the international market. Specifically, the petitioner claims the beneficiary has a special knowledge of the company's [REDACTED] and its application to a current client project which cannot be gained outside the petitioning organization. The petitioner further claims that the beneficiary's knowledge is special within the company because less than one percent of its software engineers possess the same training and that the beneficiary's training and experience places him in an elite group of engineers possessing specialized knowledge of the petitioner's [REDACTED].

In examining the specialized knowledge of the beneficiary, the AAO will look to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). The petitioner must submit a detailed job description of the services to be provided sufficient to establish specialized knowledge. Mere assertions that the beneficiary's knowledge is "special" or "advanced" are insufficient to meet the petitioner's burden of proof.

The petitioner stated that the beneficiary would be responsible for duties typical of a quality assurance or software testing engineer, such as understanding business requirements, developing proposals, automating testing applications according to customer requirements, client interactions, and other project-related tasks. The petitioner emphasized that this position is one that requires specialized knowledge because each and every duty requires the application of knowledge of the petitioner's [REDACTED], which the petitioner claims is rare within the company and not available outside the petitioner's organization. In fact, the petitioner stated that the beneficiary is the only automation testing professional with the foreign entity that possesses the training and in-depth knowledge with the proprietary tool and knowledge of the client necessary to complete the project in the United States. While the petitioner also indicated that the beneficiary's bachelor's degree, nine years of experience in automation testing, and five years of experience with the

foreign entity's operations contribute to his qualifications, it has consistently emphasized that it is the beneficiary's knowledge of the [REDACTED] and his experience with the client project that separate him from other members of its engineering staff within the company, and from quality assurance engineers in the petitioner's industry.

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. Once the petitioner articulates 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. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). USCIS must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

Here, the petitioner has neither clearly nor consistently explained when or how the beneficiary gained the claimed specialized knowledge in the petitioner's proprietary [REDACTED] or the amount of practical experience he has gained since being training in this technology, nor has it supported its claims that such knowledge is special or uncommon within the organization. At the time of filing, the petitioner stated that the beneficiary "underwent two weeks of training in the classroom followed by six months of hands on training in the [REDACTED]" and that he has spent six to seven months working on the off-shore portion of the [REDACTED] project in India. The petitioner referred to the [REDACTED] as a "very new proprietary tool," that is known by "only one percent" of its software engineers. However, the petitioner did not specify when the beneficiary completed his classroom training or when the six months of "hands on" on-the-job training occurred. The petitioner stated that the beneficiary worked on "several critical projects" during his employment with the foreign entity since May 2006, and briefly described two of these former projects. However, the petitioner did not mention the beneficiary's use of the [REDACTED] in conjunction with any client project prior to his current assignment to the [REDACTED] project, which commenced seven months prior to the filing of the petition. Further, the petitioner did not articulate any other specialized knowledge the beneficiary may have gained during his previous project assignments or the applicability of such knowledge to the U.S. assignment.

In response to the RFE, the petitioner stated that the beneficiary has undergone 96 hours of "intense" classroom training in the [REDACTED] 40 hours of which the petitioner designates as "advanced" training that is available to "a few select engineers." The petitioner explained that after the training period a Quality Assurance expert must work with the practical application of the tool for at least six months in order to reach the beneficiary's level of expertise. The petitioner stated that the beneficiary "has five years of this experience, which places the beneficiary within the elite of [the petitioner's] Quality Assurance lead software engineers," and re-emphasized that the beneficiary's proprietary knowledge is based on "both classroom training followed by "years of post-training project experience."

The petitioner's claims that the beneficiary had classroom training in the [REDACTED] followed by years of practical experience using this tool in client projects is undermined by the petitioner's

own claims made in its initial letter in support of the petition. At that time, the petitioner stated that knowledge of the proprietary tool is rare within the company because the tool is "very new." Therefore, the petitioner's subsequent statement that the beneficiary has gained five years of practical experience with the tool since completing his classroom training introduced an inconsistency into the record which has not been resolved. The proprietary tool cannot simultaneously be "very new" and more than five years old. If the tool is in fact more than five years old and is regularly offered to the petitioner's clients among the petitioner's service portfolio, such information would undermine the petitioner's claim that only one percent of its engineers possess the required specialized knowledge of the tool. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

As the petitioner has not provided the dates on which the beneficiary attended and completed his 96 hours of classroom training, identified when or how he completed his six months of "hands-on" training, or provided a detailed account of the beneficiary's employment history with the foreign entity during the last three years, the AAO cannot determine whether the beneficiary has one year of experience with the foreign entity that involved the claimed specialized knowledge with the petitioner's proprietary tool. 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

While the AAO acknowledges that the beneficiary has been employed by the foreign entity for five years, the petitioner has not clearly articulated any claimed specialized knowledge the beneficiary gained during his employment other than his classroom training and claimed "hands-on" training with the [redacted] and his seven months of experience with the current client project. As noted above, the petitioner's brief descriptions of the beneficiary's earlier projects for other clients contain no reference to the [redacted] and the beneficiary cannot be considered a specialized knowledge employee based solely on the length of his tenure with the foreign entity. For example, the petitioner noted that the beneficiary possesses a "distinct mastery of this tool which has been used for other [company] customers like [redacted]" but its brief narrative description of the beneficiary's employment history with the foreign subsidiary has no mention of this client. The record does not support the petitioner's claim on appeal that the beneficiary has five years of experience with this proprietary tool.

Based on these inconsistencies and omissions, the petitioner has not adequately supported a claim that training and experience with the [redacted] constitutes specialized knowledge. The petitioner indicates that it requires several weeks of classroom training and at least six months of practical experience to reach a level of expertise necessary for the beneficiary's position, but, again, it has failed to document when or how the beneficiary himself completed this training. Further, the petitioner has not established that the beneficiary's six months of experience working on the offshore portion of the client project resulted in his acquisition of specialized knowledge or is sufficient to establish that he has one year of employment abroad involving the claimed specialized knowledge.

All employees can be said to possess unique skill or experience to some degree; the petitioner must establish that qualities of its products or processes require this employee to have knowledge beyond what is common in the industry and knowledge that is not commonplace within the company itself. As the record does not clearly document the amount or type of training and experience actually necessary for the proffered position or support the claim that knowledge of the [REDACTED] is in fact not widely held by the company's quality assurance and testing engineers, the AAO cannot determine that the beneficiary's five years of experience with the company, 96 hours of classroom training, and six to seven months experience on the client project resulted in his acquisition of special knowledge in comparison to the petitioner's workforce. Further, since the petitioner has not supported its claims regarding the amount of time required to master the application of the petitioner's product, the petitioner has not established that the product is so complex that a similarly educated and experienced quality test engineer with expertise in [REDACTED] automated testing could not master the [REDACTED] within a reasonable period of time. The petitioner explains that there are other COTS/Open source tools that support [REDACTED] automated testing, but simply claims that its product "overcomes all the shortcomings" of the other available tools.

The petitioner claims that the beneficiary's knowledge could only be imparted on others at a high cost to the company, but, as explained above, does not provide details or evidence to support this claim. 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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

Contrary to the petitioner's claims, the record does not support a finding that the petitioner's employees are required to undergo any extensive training in the company's proprietary tools. Although the petitioner refers to the beneficiary's extensive classroom and on-the-job training, the record indicates that the beneficiary completed of 96 hours of formalized training. The petitioner has not provided details about the length and type of experience held by other employees to indicate that the beneficiary's experience or training is beyond that of other employees, or provided evidence to show the 96 hours of training provided to the beneficiary is at a level of expense or complexity that it could only be imparted on similarly experienced computer software engineers at high expense to the company.

Based on the evidence submitted, the petitioner's internal processes and tools, while effective and valuable to the petitioner, can be readily learned on-the-job by employees who otherwise possess the requisite technical background in the information technology field.

The AAO acknowledges the petitioner's claim on appeal that the beneficiary's presence in the United States is critical to the petitioning company's objective of meeting the needs of a specific client. However, merely establishing that the beneficiary will undertake an important position will not satisfy the petitioner's burden of proof. The petitioner must still submit evidence to establish that the beneficiary will be employed by the United States entity in a specialized knowledge capacity. While the beneficiary's skills and knowledge may contribute to the success of the petitioning organization, this factor, by itself, does not constitute the possession of specialized knowledge; 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). In the present matter, the petitioner's claim appears to be based primarily on the beneficiary's longer tenure with the company, which has resulted in greater familiarity with the petitioner's tools and processes than employees with a shorter term of employment may have. This does not, however, establish that the beneficiary's specific knowledge is specialized. As determined above, the beneficiary does not satisfy the requirements for possessing specialized knowledge.

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.*

For the reasons discussed above, the evidence submitted fails to establish by a preponderance of the evidence that the beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity with the petitioner in the United States. *See* Section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

#### IV. Conclusion

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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 the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.