U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: APR 18 2013 Office: CALIFORNIA 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:

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,

Ron Rosenberg
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 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 Delaware corporation, is an engineering company that provides computer-aided engineering services. The petitioner claims to be the parent of located in Romania. The petitioner seeks to employ the beneficiary as a Product Engineer for a period of three years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary was employed by the foreign subsidiary in a specialized knowledge capacity, that the beneficiary possesses specialized knowledge, and that the beneficiary will be employed in a position that requires 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 submits a brief and contends that the director erred in finding a lack of specialized knowledge. Counsel claims the petitioner established specialized knowledge and emphasizes the beneficiary's training in the petitioner's proprietary methods.

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.

II. The Issues on Appeal

The issues to be addressed are whether the petitioner established: 1) that the beneficiary was employed by the foreign subsidiary in a specialized knowledge capacity, 2) that the beneficiary possesses specialized knowledge, and 3) that the beneficiary will be employed in a position that requires specialized knowledge.

The petitioner is an engineering company established in 1989 that provides "Computer Aided Design Engineering & Development." It claims 428 employees in the United States and a gross annual income of $22 million.

The petitioner seeks to hire the beneficiary as a Product Engineer for a period of three years. It will pay him a salary of $62,000 annually. The beneficiary received the equivalent of a bachelor's degree in industrial engineering from the [redacted] in July 2010 and is currently pursuing a master's degree in technical project management and computer-aided manufacturing systems from the same institution. According to the petitioner, the beneficiary has worked for its Romanian subsidiary since January 2011.

On the Form I-129 Petition for a Nonimmigrant Worker, the petitioner stated that the beneficiary has extensive education and training in industrial engineering with specialization in machine manufacturing and CAD/CAM. It stated that, in the beneficiary's proposed position of Product Engineer, he would project specifications and perform analysis, testing, and modeling of product components for the petitioner's client [redacted] for whom the beneficiary has done work in Romania.

In a letter accompanying the initial submission, the petitioner described the beneficiary's training and experience as follows:

> [The beneficiary] possesses a high degree of technical expertise as a result of his schooling, specialized training and hands-on experience in the areas of engineering concepts and practical application relating specifically to sheet metal, piping, electro-mechanical, FEA (linear and non-linear) CFD, hydraulics, mechanical design and manufacturing processes, pneumatics systems, metal properties and plastic properties. His expertise extends to structures, castings, engine design, transmission design, mechanical components, GD&T, stamping & fabrication, cast components, supplier collaboration/PPAP, and risk management (APQP/DFMEA/DVP&R). He also have [*sic*] proven experience in project management principles and time management required to lead a customer product development team.

The petitioner also provided the following explanation of the beneficiary's previous work with the petitioner's processes and methodologies:

> [The beneficiary] has worked on a number of highly-technical projects acquiring the specialized knowledge outlined below that is unique and only possessed by [the petitioner's] engineers having been training [*sic*] in our processes and methodologies as well as those of the customer:
>
> - Proficiency in working with all the dedicated [client [redacted]] computer programs including HVC, UGC, REDI, Nitromation, Teamcenter, Visview Teamcenter, SIFT, Sametime, and various PDM systems.
>
> - Proficiency with [client [redacted] specific castings, forgings, sheet metal parts, complex iron castings, large assemblies, hydraulic design, solid engineering, surfaces, and fluid lines.
>
> - Thorough understanding of customer requirements in cab designs on over 16 product lines that involved the design and detailing of electrical systems, hydraulics systems, pneumatic systems thus allowing and [*sic*] full schematic to be created for 4 different truck and tractor cab lines that designated the common points between hydraulic and pneumatic specifications for 4 truck and tractor lines where the same design could them be shared. This also required detailing the hydraulic and pneumatic attachments similarly allowing for more functionality in the same units than the prior generation of cabs allowed for. This also involved the completed analysis of the hose routings for the cabs and a re-design of the electrical and hose routings allowing for a reduction of parts and associated costs.
>
> - Expertise in the transmission and gear assemblies of large, complex engine systems in which a gear box with only three steps were [*sic*] required for a hybrid transmission, which was reduced from the former nine steps.

The petitioner listed specific trainings received by the beneficiary upon his employment with the foreign subsidiary. According to the petitioner, the beneficiary participated in 24 days worth of trainings between January and April of 2011. The subjects of the trainings included the petitioner's quality management requirements, advanced assembly design, parametric design, casting and forging, and data manipulation using the petitioner's software. The petitioner also submitted a more detailed description of the beneficiary's current position with the Romanian subsidiary. The

submission indicates that a design engineer's role at the Romanian subsidiary is to develop and design components for the automotive industry, including parts made of rot molded plastic, injected plastic, thermoformed, rubber, and sheet metal. The position requires proficiency in CAD/CAM software applications.

In its letter submitted with the petition, the petitioner described the beneficiary's responsibilities in the proposed position in the United States as follows:

> From [the Lombard IL] address [the beneficiary] will be responsible for coordinating the engineering work that will be sent to our offsite engineering production facilities for the projects that he has responsibility for including, but not limited to [redacted]; [redacted], and; [redacted] He will work with the customer's engineering teams in the project specification stage to perform the analysis, testing and modeling of the product components through simulation models to determine the fatigue loads, stress limits and fail rates prior to production. Once the analysis and definition is complete, he will then work with the engineers at the customer location to collect the engineering data, review to ensure it has been defined properly to meet the customer's specifications as a first step in the quality assurance process. He will then prepare the work packages and send them to our offsite engineering production facilities and, once completed, receive them back and again check to ensure the work completed meets the quality standards and customer specifications. If problems exist, he will be responsible for making the necessary corrections prior to releasing the work into the customer's production system.

The petitioner also submitted a job description for the beneficiary's proposed position of Product Engineer. The job description lists the position's "Essential Duties and Responsibilities" and the percentage of time[1] required for each as follows:

1. Provide analytical assessment of technical engineering data including technical drawings in order to analyze, recommend, identify and correct engineering design problems for each specific product throughout the product development lifecycle. Requires correct analysis of empirical data as well as intuitive judgment of data. (25%)

[1] When added together, the percentages of time required for the listed tasks amount to greater than 100%.

2. Prepare, check and / or review technical specification documents, design calculations and data to ensure proper design of product(s) to meet customer requirements. (15%)

3. Examine technical engineering design documents for completeness and accuracy and use that data to write product performance requirements and engineering design specification packets for production personnel based upon and communicate those requirements to the on-site and off-shore design teams. (15%)

4. Provide technical review, input and guidance to engineering production design teams. (10%)

5. Communicate with engineering, technical and manufacturing personnel on technical product specifications throughout product development life-cycle including prototype and production stages of project. (10%)

6. Support supplier qualification and selection process through technical inquiries and evaluation to ensure conformance with contracted deliverables. (10%)

7. Utilize computer aided drafting and mechanical design software applications to design mechanical and electro-mechanical products that meet customer project specifications. (20%)

8. Analyze project proposal to determine feasibility, cost, and time-lines required to complete project development lifecycle. Ensure all assigned deliverables are executed in accordance with technical specifications and are within cost parameters and schedule requirements. (20%)

9. Support Lead Product Engineers and Project Managers in responding to inquiries from customers, partners, and suppliers. (5%)

10. Maintain and track all project information and related data in neat [*sic*] and organized manner according to company process definitions and guidelines for efficient retrieval of information from the various internal departments of [the petitioner] as well as from the customer. (5%)

11. Complete other duties as assigned.

The job description indicates that the position requires a minimum of a Bachelor's degree and two to five years of related experience, or a Master's degree and one to two years of related experience.

The petitioner submitted numerous other documents. These include promotional material regarding work performed by the petitioner, organizational charts for the petitioner and its Romanian subsidiary, the petitioner's quality manual, and its employee evaluation procedures.

The petitioner submitted a document from the Romanian subsidiary entitled [redacted] dated January 31, 2011 which confirms the beneficiary's employment and indicates the subsidiary's total number of employees. There are 251 total employees of the Romanian company, of whom 199 are engineers.

The petitioner also provided a reference letter from a Greek Professor dated July 21, 2009 which indicates that the beneficiary studied at the Mechanical Engineering Department of the [redacted] Greece. The letter lists the courses the beneficiary took, states that the beneficiary received a grade of at least 90% in 4 out of 6 courses, and notes that the classes were mostly conducted in English.

The petitioner submitted documents related to the work the petitioner does for its client, [redacted] These include a Statement of Work that outlines the terms of an ongoing relationship between the petitioner and [redacted] The petitioner also submitted a Projects Description that states: ". . . most of the products [redacted] produces are patentable and considered to be highly confidential as well. Only a select number of highly-skilled, highly knowledgeable individuals are permitted access to their product designs and are required to sign confidentiality agreements prior to gaining access." The petitioner did not provide any documents related to the specific projects on which the beneficiary would be working.

The director subsequently issued a Request for Evidence (RFE) instructing the petitioner to provide more evidence that the beneficiary's position abroad was in a specialized knowledge capacity. The director noted that, although the petitioner provided a job description and organizational chart of the foreign entity, this information was insufficient to establish the necessary specialized knowledge. In particular, the RFE requested a more detailed description of the beneficiary's job duties abroad, including an explanation of how the beneficiary's knowledge or understanding of the petitioner's products or processes differs from that of others and can be classified as specialized or advanced. The RFE also requested additional evidence to show that the petitioner has specialized knowledge, including a more detailed description in "laymen's terms" of the petitioner's product or processes of

which the petitioner has specialized knowledge and how the petitioner acquired the specialized knowledge through training or experience. Lastly, the RFE requested additional evidence to show that the beneficiary will be employed in a specialized knowledge capacity in the proposed position in the United States. The RFE suggested that this evidence would include a description of how the beneficiary's proposed job duties require specialized knowledge, and how the beneficiary's knowledge differs from the standard skills expected in the field.

In response to the RFE, the petitioner submitted a brief and additional evidence. The accompanying evidence included letters from the petitioner and the foreign subsidiary, as well as duplicate copies of previously submitted documents. In its letter, the petitioner reiterated that the beneficiary has specialized knowledge that is not generally available in the engineering field and that this knowledge requires thousands of hours of training and hands-on experience to obtain. The petitioner stated that the beneficiary's knowledge is specialized and unique because it pertains specifically to the petitioner's proprietary engineering methodologies as they apply to its customers' specific engineering requirements and production design environment. The petitioner asserted that its customers hold these confidential as part of their trade secrets. According to the petitioner, it is its proprietary engineering processes that differentiate it from other engineering firms. The petitioner emphasized that the beneficiary has a deep understanding of the petitioner's engineering methodologies and how to apply them to the environment of its client, [redacted].

The director ultimately denied the petition, concluding that the petitioner failed to establish that the beneficiary was employed by the foreign subsidiary in a specialized knowledge capacity for the required one year period, that the petitioner possesses specialized knowledge, and that petitioner would employ the beneficiary in a specialized knowledge capacity in the proposed position. In denying the petition, the director found that the duties in the beneficiary's current and proposed positions are analogous to the duties of any similar position in the field. The director concluded that the petitioner did not demonstrate that the beneficiary's level of training or experience was significant enough that he could be considered to have specialized knowledge of the petitioner's products or processes.

On appeal, counsel submits a brief contending that the director erred in his conclusions. Counsel contends that the beneficiary's knowledge is specialized for the following reasons:

> The Beneficiary accomplishes his job duties by utilizing the proprietary methodologies [the petitioner] has developed for its clients. The work involves the analysis of customer needs an [*sic*] implementation of [the petitioner]'s proprietary engineering methodologies, which [the petitioner] has developed over the course of the past 20 years. The Beneficiary received over 1,000 hours

> of training on these specific proprietary methodologies during his first year of employment with [the petitioner]'s Romania [*sic*] subsidiary.

Counsel further emphasizes that the beneficiary will be working for and controlled by the petitioner, not by the petitioner's client companies.

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.

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). The director 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.*

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 claims that the beneficiary's qualifications are based on the second prong of the statutory definition, in that he has an advanced level of knowledge of the petitioner's processes or procedures.

When examining the specialized knowledge of the beneficiary, the AAO will look first to the petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). Accompanying the Form I-129, the petitioner submitted a list of the essential duties and responsibilities of the petitioner's proposed position, including the percentage of time each responsibility requires. The list provided indicates that the beneficiary would be responsible for a number of tasks related to engineering design, including: analyzing empirical data and technical drawings; preparing and reviewing calculations, specifications, and designs; examining documents for completeness and accuracy; and providing technical review, input and guidance.

These job duties are generic and appear as though they could apply to any product engineer position. The director noted in her denial:

> The duties of the position described by the petitioner reflect the same or similar duties of Engineers as listed in the Occupational Outlook Handbook (OOH), a publication of the United States Department of Labor. The OOH indicates that employees in the same or similar positions as the beneficiary perform the following duties: use computers extensively to produce and analyze designs; to simulate and test how a machine, structure, or system operations, to generate specifications for parts; to monitor the quality of products; and to control the efficiency of processes. From this comparison, it appears that the beneficiary performs the same or similar duties as other workers in a similar position in the field.

The director's observation is accurate. There is nothing in the list of job duties provided that distinguishes the beneficiary's proposed position from that of other design engineers.

Counsel and the petitioner repeatedly asserted that the nature of the beneficiary is highly specialized and requires an advanced knowledge of the petitioner's proprietary processes and methods. However, 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 Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner makes multiple references to its proprietary engineering processes. However, the petitioner failed to explain how the petitioner's processes and procedures differ from those of other engineering firms. Furthermore, many of the documents submitted detail the processes and procedures of the petitioner's client. As an initial matter, the documents submitted regarding the supposedly secret processes and procedures of do not describe a design or decision-making process unlike that which would be expected at any major manufacturing and product design company. The petitioner submitted documents such as Eight Principles of CPPD (Collaborative Product and Process Development), a two-page document explaining philosophy and focus for product development. The petitioner also submitted a 1998 case study detailing product development process. These documents, though relevant, do not reveal a unique system, nor do they reveal one that appears so complex that an otherwise qualified worker in the field would require significant training and experience to perform the beneficiary's proposed position.

More importantly, these procedures and processes are not those of the petitioner, but rather those of a third party client. The petitioner claims that these should be considered a part of the beneficiary's specialized knowledge because he will be working specifically on projects in the United States. To the extent that the petitioner would state that the beneficiary's involvement in projects in Romania is indicative of his knowledge of the petitioner's products, services and techniques and their application in international markets, such a claim is misguided. The beneficiary's familiarity with the unaffiliated employer's systems and requirements, while valuable to the petitioner, cannot be considered knowledge specific to the petitioning organization and cannot form the basis of a determination that he possesses specialized knowledge. All engineers within the petitioning organization would reasonably be familiar with its proprietary internal processes and methodologies for carrying out client projects. Similarly, most employees would also possess project-specific knowledge relative to one or more international clients, which the petitioner would equate to knowledge of the application of the petitioner's methodologies and processes in "international markets." However, the fact that the beneficiary possesses very specific experience with a particular international client project does not establish that the beneficiary's knowledge is indeed special or advanced.

In addition to failing to show that the beneficiary's proposed position in the United States requires specialized knowledge, the petitioner has failed to establish that the beneficiary possesses specialized knowledge. The petitioner attempted to establish the beneficiary as a specialized knowledge employee by virtue of his education and experience. The beneficiary obtained his

Bachelor's degree in 2010 and in January 2011 began working for the petitioner. The petitioner claims he is in the process of studying for his Master's degree. In addition to this education, the petitioner makes varied claims regarding the beneficiary's training with the petitioner. According to counsel's letter on appeal, the beneficiary received 1000 hours of training within his first year of working with the beneficiary. The petitioner submitted a list of the training courses taken by the beneficiary which reflect a total of 24 days, or approximately 192 hours of training. 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).

A list of the beneficiary's trainings submitted in response to the RFE shows additional trainings, however they are for dates that precede the beneficiary's hiring with the petitioner. As a result, it is unclear whether these additional trainings are outside courses or whether they are not an accurate reflection of the petitioner's trainings. Again, it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. *Matter of Ho*, *supra*.

It is also worth noting that the job description for the beneficiary's proposed position states that it requires a minimum of a Bachelor's degree and two to five years of related experience, or a Master's degree and one to two years of related experience. With a Bachelor's degree and less than two years of experience, the beneficiary did not have this minimum level of education and experience at the time the instant petition was filed.

The petitioner submitted documents describing the petitioner's work and the different kinds of projects it performs. However, the petitioner's descriptions stop short of explaining why knowledge of its products or processes is something which could not be easily learned by a skilled individual working in the field. The petitioner makes reference to its "proprietary engineering methodologies," and the "processes and methodologies" of the petitioner and its customers. However, the petitioner does not provide sufficient detail to satisfy its burden of proof in demonstrating the requisite specialized knowledge. The petitioner failed to explain these processes and methodologies and, most importantly, how they are sufficiently complex or unique that knowledge of them could not be easily transferred. Going on record without documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r. 1998) (*citing Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

The AAO acknowledges that the specialized knowledge need not be narrowly held within the organization in order to be considered "advanced." However, it is equally true to state that knowledge will not be considered "special" or "advanced" if it is universally or even widely held throughout a company. If all similarly employed workers within the petitioner's organization

receive essentially the same training, then mere possession of knowledge of the petitioner's processes and methodologies does not rise to the level of specialized knowledge.

The petitioner has not successfully demonstrated that the beneficiary's knowledge of the petitioner's processes and procedures gained during his 18 months of employment with the foreign entity is advanced compared to other similarly employed workers within the organization. As noted above, the petitioner's attempts to distinguish the beneficiary's knowledge as advanced relative to a specific client project are unpersuasive. All of the foreign entity's technical employees would reasonably have project-specific knowledge in addition to knowledge of the company's proprietary tools and processes for implementing projects. By this logic, any of them would qualify for L-1B classification if offered a position working on the same project in the United States.

The AAO does not dispute the possibility that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. However, as explained above, the record does not distinguish the beneficiary's knowledge as more advanced than the knowledge possessed by other people employed by the petitioning organization or by workers employed elsewhere in the industry. The beneficiary's duties and technical skills, while impressive, demonstrate that he possesses knowledge that is common among trained individuals in the engineering field. Furthermore, it is not clear that the performance of the beneficiary's duties would require more than basic proficiency with the company's internal processes and methodologies. The petitioner has failed to demonstrate that the beneficiary's training, work experience, or knowledge of the company's processes is more advanced than the knowledge possessed by others employed by the petitioner, or that the processes used by the petitioner are substantially different from those used by other engineering companies. The petitioner has failed to demonstrate that the beneficiary's knowledge is any more advanced or special than the knowledge held by a skilled worker. *See Matter of Penner*, 18 I&N Dec. 49, 52 (Comm. 1982).

In addition, in attempting to show that the beneficiary possesses the requisite specialized knowledge, the petitioner makes unsubstantiated claims regarding the extent of the beneficiary's knowledge and experience. The petitioner emphasized the beneficiary's knowledge of both the petitioner's processes and client products and systems. In the petitioner's letter submitted in response to the RFE, the petitioner stated that the beneficiary is particularly well qualified for jobs with because "[he] has spent years working on their projects and learning their unique needs and design demands." This is clearly an exaggeration, as the petitioner received an undergraduate degree less than two years before the filing of this petition. 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*, *supra* at 591.

The petitioner also refers to the beneficiary as "an expert in part and component design and redesign, complex assembly design; systems design; tooling; product engineering analysis; legacy data conversion as well as detailing and drafting." Again, this seems a very liberal use of the term "expert," given that the beneficiary received the equivalent of his undergraduate degree only two years prior to the filing of the instant petition.

The same letter refers to the beneficiary's "nearly five years of experience he has acquired as a mechanical engineer working for [the petitioner] and other employers in Romania." This statement directly conflicts with the other evidence provided which indicates that the beneficiary has less than two years of experience with the petitioner and has had no other employers. 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, supra.*

In addition, even if we assume arguendo that the beneficiary's familiarity with the client's systems could be considered "specialized knowledge," the petitioner claims that it has provided engineering and design services for an extended period of time. In light of this information, it is unclear how the beneficiary, who has only worked for the petitioner for 18 months and worked on its client' projects for less time than that, is considered to have "advanced" knowledge of the petitioner's processes and methodologies relative to the unaffiliated employer's projects. This is particularly the case given that the beneficiary is one of 199 engineers working at the petitioner's Romanian subsidiary.

All employees can be said to possess unique and unparalleled skill or experience to some degree. Moreover, the proprietary qualities of the petitioner's process or product do not automatically establish that any knowledge of this process is "specialized." Rather, the petitioner must establish that qualities of the unique process or product require this employee to have knowledge beyond what is common in the industry. This has not been established in the present petition. The fact that other workers may not have the same level of experience with the petitioner's methodologies as applied to one component of a specific client project is not enough to establish the beneficiary as an employee possessing specialized knowledge.

The director also denied the petition on the basis that the petitioner failed to show that the beneficiary was employed by the foreign subsidiary in a specialized knowledge capacity for one year in the preceding three. As with the proposed position in the United States, the petitioner submitted a description of the beneficiary's current position in Romania. In the case of the beneficiary's position abroad, it must be noted the beneficiary received his undergraduate degree on July 21, 2010 and began work with the petitioner on January 1, 2011. The beneficiary's resume contains no related work experience other than that with the petitioner. According to the petitioner, the beneficiary

received 1000 hours of training his first year. A letter from the petitioner submitted in response to the RFE states that it takes a minimum of one year to prepare an engineer who has a minimum of a bachelor's degree in engineering to be ready to perform the highly complex work required by the petitioner's customers. Assuming it took the beneficiary a year after his hire, the beneficiary would have reached this level of training on January 1, 2012. The petitioner filed the instant petition on August 16, 2012. This means that the beneficiary worked for the petitioner for less than eight months after having been satisfactorily trained to perform his duties. However, in order to qualify for an L1B visa, the beneficiary must have worked for the foreign company for a minimum of one year in a specialized knowledge capacity. According to the petitioner, the beneficiary was competently trained to perform his duties only eight months before he filed the instant petition. As a result, the beneficiary does not have the required one year of employment in the specialized knowledge capacity required to qualify for the L1B classification.

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.