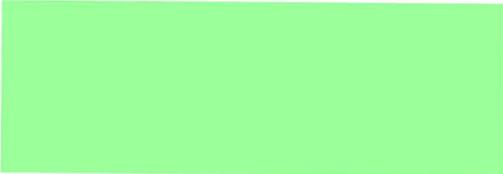




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: Office: CALIFORNIA SERVICE CENTER

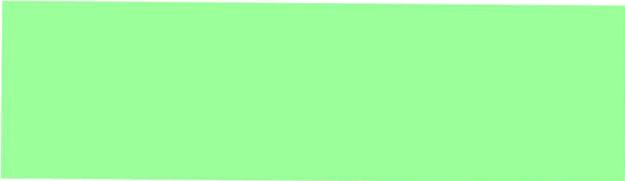
FILE:

JUN 25 2013

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker under 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 visa petition to classify the beneficiary as an L-1B intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act ("the Act"), U.S.C. § 1101(a)(15)(L). The petitioner, a Delaware corporation established in December 1997, is self-described as a company engaged in the design and sales of automated manufacturing processes, and claims to be a wholly-owned subsidiary, of [REDACTED], and an affiliate of the beneficiary's foreign employer, [REDACTED]. The petitioner seeks to employ the beneficiary in the position of Project Engineer for a period of five years.²

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

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the director applied an improper standard in determining whether the beneficiary possesses specialized knowledge. Counsel contends that the petitioner has submitted sufficient evidence to establish that the beneficiary possesses specialized knowledge and will be employed in a capacity requiring specialized knowledge. Counsel submits a brief in support of the appeal.

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

¹ The petitioner has submitted an organizational flowchart of the corporate ownership scheme. Both the petitioner and the beneficiary's current foreign employer [REDACTED] are wholly-owned subsidiaries of [REDACTED], one of two affiliates owned and controlled by [REDACTED] which is wholly-owned by the parent company, [REDACTED].

² Pursuant to the regulations at 8 C.F.R. § 214.2(l)(7)(i)(A)(2), an individual petition approved for an alien classified under section 101(a)(15)(L) shall be valid for an initial period not to exceed three years, except where the beneficiary is coming to the United States to open or to be employed in a new office, in which case the petition may be approved for an initial period not to exceed one year.

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 Issue on Appeal

The sole issue to be addressed 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 self-described as a company engaged in the design and sales of automated manufacturing processes, installing conveyor systems for production lines for machining, assembly and testing. The petitioner indicates that it has 103 employees and gross annual income of \$38,894,694.

In support of the petition, the petitioner submitted a copy of the beneficiary's job offer letter dated October 27, 2011, offering the beneficiary the position of Project Engineer in the petitioner's [redacted] office as part of the petitioner's [redacted]. The letter lists the duties of a Project Engineer as follows:

- a. Development of the right technical solution and cost calculation for Tissue specific inquiries.
- b. Execution of [company] quotations/layouts with standard [petitioner] products along with Tissue based solutions and some third party equipment.
- c. Support of quotations coordination with other global units in Gothenburg and Bologna;
- d. Support of projects teams both at [sic] locally and in the area.
- e. Support of applications development on occasion as prioritized by the SBU management.
- f. Other tasks may be required as requested by the [the petitioner's] management.

The petitioner submitted a copy of the beneficiary's resume, in which the beneficiary indicates he obtained his Bachelor's degree in automation engineering in June 2006, the same month that he was hired by the petitioner's [redacted]. According to the beneficiary's resume, upon joining the foreign entity he worked as a project leader on two projects for the company's client, [redacted] between June 2006 and October 2008.

The beneficiary's resume indicates that since October 2008 he has been employed by [redacted] in the concurrent positions of IT coordinator and application engineer. As IT coordinator, the beneficiary indicates he is responsible for coordinating "the entire software and hardware structure at [redacted]". As an application engineer, the beneficiary states that he performs the following duties:

- Definition of technical solutions for customers["] needs on all segments, but more focused on automotive and tissue segments.
- Execution of technical proposals through system lay-out engineering and cost estimating using AutoCAD, FlexCAD, Configura and Product Configurator at Order Online.
- Contact with suppliers for external quotations.
- Support sales engineers and give technical support to other company departments
- Perform training of [the petitioner's] products and engineering tools to customers and partners.
- Support on the implementation of ISO at [redacted]

The beneficiary indicates that his specific skills include the following:

Technical drawing: Autodesk AutoCAD + FlexCAD, Configura;
Programming: Object Pascal (Delphi), Visual Basic, C/C ++, Assembly, Ladder;
Artificial Intelligence: Fuzzy logics and Neural networks
Ethernet networks: TCP/IP
Linux Servers: (HTTP, FTP, SSH, Proxy, NFS/Samba)

The beneficiary indicates that he completed company-provided training in [REDACTED] conveyor (2010), IT Coordinators training (2008), and training in [REDACTED] (2007).³

Aside from the corporate organizational chart, the offer letter, the beneficiary's resume and a recent pay statement, the petitioner provided no other supporting evidence with its initial filing.

The director issued a request for additional evidence ("RFE") on December 23, 2011. The director instructed the petitioner to submit, *inter alia*, the following evidence: (1) an explanation regarding how the duties the beneficiary performed abroad and those he will perform in the United States are special, advanced or otherwise different from those of other workers employed by the petitioner or other U.S. employers in similar positions; (2) a detailed explanation regarding exactly what is the equipment, system, product, technique or service of which the beneficiary has specialized knowledge; (3) an explanation as to how the beneficiary's training compares to that of others employed by the petitioner or by others working in his field; and (4) a statement from the beneficiary's supervisor describing the beneficiary's training or experience with the organization abroad. The director's RFE was highly specific and explained why the initial evidence was insufficient to establish the beneficiary's eligibility as a specialized knowledge employee. The director specifically noted the lack of corroborating evidence to support the petitioner's assertions that the beneficiary's knowledge is special or advanced.

In response to the RFE, the petitioner submitted two letters, a position description for a U.S.-based "Application Engineer" position, and a copy of the parent company's 2010 Business Review. The Business Review explains that the parent company is an innovator of modern conveyor systems, installing such systems all over the world for production lines for machining, assembly and testing. The business review further states that the parent company has "a flexible supply scope, from components to turnkey installations, together with a range of software and services, including a large amount of proprietary core technology." The business review indicates that the company provides its products and services to four major industry segments: automotive, electronics, healthcare and fast moving consumer goods. The parent company has set up two dedicated [REDACTED], for the [REDACTED] a partner channel of more than 100 strategic partners and a large number of service partners.

The petitioner's response also included a job description for the position of "Application Engineer" based at its Wisconsin office.⁴ The essential duties of the position are described as follows:

³ The 2010 Business Review of the parent company indicates "[REDACTED] a new product platform with state-of-the-art features was launched in January 2010."

⁴ The AAO notes that the offer letter submitted at the time of filing identified the proffered position as Project Engineer, rather than Application Engineer.

- Develop project quotations for customer.
- Develop accurate costing sheets to support quotations to customer.
- Assign and work together with sales personnel to specific phases or aspects of quotations such as technical studies, product design, preparation of specifications and technical plans, installation, and product testing.
- Review product design for compliance with customer specifications and requirements, company standards.
- Evaluate and approve design specifications, and layout drawing releases. Develop conceptual designs to meet customer specifications. Develop initial CAD layouts for presentation to customer.
- Control costing within limitations of quotation budget.

The job description lists the educational/experience requirements as follows:

Bachelor's degree (B.A. or B.S.) from four year college or university; or a minimum of five years related experience and/or training; or equivalent combination of education and experience. At least three years of related experience must be from within [the petitioning company], in engineering or other related fields where the [company] offering is learned well.

In response to the RFE, the petitioner also submitted a letter from [redacted] in the [redacted] office. [redacted] reiterated the position description provided at the time of filing, and asserted that the proffered position of Applications Engineer requires an employee with specialized knowledge. He states that, although the parent company has more than 30 years of experience in installing production logistics systems worldwide in the tissue industry, the [redacted] in Wisconsin was recently established in January 2011.⁵ He states that in "building a team of engineers he "specifically sought Applications Engineers in [the petitioner's] existing sales units with a proven record of success serving the tissue industry." He also states the [redacted] requires engineers to have "strong AutoCAD and FlexCAD skills and have an advanced knowledge of [the petitioner's] Product Configurator." [redacted] further indicates that these skills "cannot be learned overnight (or over several months for that matter), even by an otherwise experienced engineer." He emphasizes that the company needs to be able to immediately service 200 global customers with "existing [company] engineers with tissue industry specific [company] training and experience."⁶

Finally, with respect to the beneficiary's qualifications as an employee with specialized knowledge, the petitioner submitted a letter from [redacted], Application Supervisor at [redacted] who has been the beneficiary's supervisor since 2008. [redacted] provides the following background information regarding the company's products and services:

⁵ The AAO notes that on appeal counsel asserts that the [redacted] became operational in January 2012.

⁶ The AAO notes that the remainder of [redacted] testimonial letter erroneously refers to another employee currently working for the petitioner's affiliate in Canada, and not to the beneficiary of this petition.

[The company's] global mission is to allow its customers, primarily manufacturers, to achieve full production efficiency through logistics solutions. Specifically, [the petitioner's] field of operation is industrial automation, particularly automated manufacturing processes for producing light-weight goods. Industrial automation is a wide area, including a large number of disciplines and suppliers, from process automation, robotics and machinery to the automated flow of products and information in the manufacturing process. The main industrial segments served by [the company] are (i) automotive (ii) electronics (iii) healthcare and (iv) fast moving consumer goods. Moreover, [the company] has particularly strong expertise in serving the global tissue industry, with systems installed at more than 200 customer sites worldwide. In response to this unique industry segment, [the company] recently began operating its tissue business independently through the global [REDACTED], Wisconsin.

[REDACTED] explained that the petitioner's end product is "a unique production logistics solution based on (i) proprietary conveyor systems (ii) handling functions (iii) software and (iv) services." He stated that the application engineer position is involved in all phases of design, installation and service for these tailored solutions.

Finally, with respect to the beneficiary's specific experience gained as an application engineer with [REDACTED] [REDACTED] stated:

[The beneficiary] demonstrated particular skill in design and installation of systems serving the automotive and tissue industry. [The beneficiary's] skill in designing [the petitioner's] systems for the tissue industry is advanced as compared to his peers working as Application Engineers under my supervision at [REDACTED]. That skill only advanced further as I continued to assign projects to [the beneficiary] in the tissue industry. Certainly, he is the most advanced and knowledgeable Application Engineer with [REDACTED] for serving the tissue industry.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that the beneficiary has been or will be employed in a capacity involving specialized knowledge. In denying the petition, the director concluded that the petitioner submitted insufficient evidence to establish that beneficiary's current and proposed positions "involves a specialized or advanced level of knowledge" compared to others who are similarly employed in the automated manufacturing industry.

The director further found that while the evidence establishes that the beneficiary "has a wide range of skills, experience and training with various processes and methodologies" it cannot be concluded that the beneficiary "has knowledge or experience in the field of design and sales of automated manufacturing processes that is significantly different from that possessed by similarly situated employed workers in the same business activity" or similarly situated employees within the petitioner's group of companies. The director emphasized that, although the petitioner asserts that the beneficiary possesses knowledge of the petitioner's proprietary

processes, methodologies, tools and/or products, the petitioner "there is no evidence on record to suggest that the processes pertaining to your organization are different from those applied by any Project Engineer or similar position working in the same industry . . . or amount to specialized knowledge."

On appeal, counsel asserts that the petitioner has explained that the beneficiary possesses specialized knowledge, in that he possesses knowledge which can be gained only through prior experience with the parent organization, and possesses knowledge of a product or process which cannot be easily transferred or taught to another individual. Counsel asserts that the offered position requires "strong AutoCAD skills, and have an advanced knowledge of [the petitioner's] product specific NG & Chain pull calculations. A mechanical engineer without specialized knowledge relating to serving the global tissue industry is inadequate . . . Why else would [the petitioner] look only to its existing global team in staffing this new [redacted]?"

Counsel identifies the proffered position as "project leader" for the first time and emphasizes that the petitioner specifically sought project leaders from the company's global sales units who have demonstrated "a proven record of success serving the tissue industry," and who have "a complete understanding of the connection between [the petitioner's] products' capabilities and the needs of paper/tissue industry customers." Counsel suggests that the beneficiary's advanced degree and proprietary knowledge of the company's products and processes should be sufficient to establish his eligibility for the requested classification.

III. Analysis

Upon review, the petitioner has not established that the beneficiary possesses specialized knowledge or that he has been or 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 for the L-1B visa classification, the petitioner must show that the individual has been and 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. 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.

Turning to the question of whether the petitioner established that the beneficiary possesses specialized knowledge and will be employed in a capacity requiring specialized knowledge, upon review, the petitioner has not demonstrated that this employee possesses knowledge that may be deemed "special" or "advanced" under the statutory definition at section 214(c)(2)(B) of the Act, or that the petitioner will employ the beneficiary in a capacity requiring specialized knowledge.

Upon review, the petitioner has not demonstrated that the beneficiary possesses knowledge that may be deemed "specialized" or "advanced" under the statutory definition at section 214(c)(2)(B) of the Act. As discussed herein, the AAO concurs with the director's conclusion, based, in part on the petitioner's failure to provide a meaningful response to several of the queries raised in the RFE. In both the request for evidence and the final denial, the director clearly articulated the objective statutory and regulatory requirements and applied them to the case at hand.

In examining the specialized knowledge 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. *Id.* Merely asserting that the beneficiary possesses "special" or "advanced" knowledge will not suffice to meet the petitioner's burden of proof.

The petitioner in this case has failed to establish either that the beneficiary's position in the United States or abroad requires an employee with specialized knowledge or that the beneficiary has specialized knowledge. Although the petitioner repeatedly asserts that the beneficiary has been and will be employed in a "specialized knowledge" capacity, the petitioner has not adequately articulated any basis to support this claim. The petitioner has provided general descriptions of the beneficiary's past and present duties, but the description does not mention the application of any special or advanced body of knowledge specific to the petitioning organization which would distinguish the beneficiary's role from that of other similarly-experienced application engineers employed by the petitioner or the production logistics field at large. The evidence of record indicates that the beneficiary develops preliminary designs of conveyor systems according to customer requirements, primarily for the automotive/tissue industry segments using experience with Autodesk AutoCAD + FlexCAD and

Configura. These tools and technologies have not been identified as specific to the petitioner and appear to be widely used in the manufacturing industry.

Further, the AAO cannot overlook that the petitioner has provided three different position titles and two different lists of job duties for the beneficiary's proposed U.S. employment. The petitioner initially indicated that the offered position is "project engineer," and in response to the RFE, the petitioner submitted a position description for the U.S.-based position of "application engineer," which appeared to involve more technical duties compared to the initial position description. On appeal, counsel asserts that the offered position is "project leader." The AAO cannot conclude that these titles all refer to the same position. Further, we note that the position of "project leader" appears to be a separate and distinct position in the organization, as the beneficiary indicates in his resume that he was initially hired by the foreign entity as a project leader in 2006 and only later assumed his current position as an application engineer. 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).

The petitioner claims that the beneficiary's specialized knowledge was derived primarily from his experience gained the foreign entity since 2008, working on projects in the paper/tissue industry segment that are claimed to be similar to the projects to which he will be assigned in the United States.⁷ However, the petitioner has not provided evidence establishing the extent or nature of the beneficiary's work in the tissue industry segment. The beneficiary's resume indicates that since October 2008 he has held the positions of both IT Coordinator and application engineer, and that his work as an application engineer was in all industry segments, "but more focused on automotive and paper/tissue segments."⁸ The beneficiary's resume does not indicate what percentage of time he worked as an IT coordinator relative to his work as an application engineer, or indicate what percentage of time he worked as an application engineer in the tissue industry segment relative to other industry segments. The resume includes no specific details regarding his specific assignments as an application engineer.

Similarly, the letter from Mr. [REDACTED] does little more than confirm that the beneficiary gained an unquantified amount of experience serving clients in the tissue industry while employed as an application engineer in Brazil. He also fails to specify any specific projects or duties assigned to the beneficiary to support his conclusion that the beneficiary is "the most advanced" engineer in Brazil with respect to that industry. 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)). Again, merely asserting that

⁷As stated previously the beneficiary was hired by [REDACTED] after graduating college in June 2006. According to the beneficiary's resume, upon joining [REDACTED] he worked as a project leader on two projects for [REDACTED] from June 2006 to October 2008, which included a 15-month residence at the customer's manufacturing plant.

⁸ As stated previously, the parent company's 2010 annual report lists four major industry segments: automotive, electronics, healthcare and fast moving consumer goods [REDACTED]

the beneficiary possesses "special" or "advanced" knowledge will not suffice to meet the petitioner's burden of proof.

In addition, the petitioner does not explain in any detail how the beneficiary's specialized knowledge derives from company-specific methods or procedures for automated manufacturing processes, other than stating the beneficiary has "specialized or advanced knowledge of [company] specific processes" such as the petitioner's products and company-specific "NG & Chain pull calculation" knowledge. Therefore, the petitioner has offered little more than conclusory assertions in support of its claim that the beneficiary possesses specialized knowledge. Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724, F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905, F.2d 41 (2d. Cir. 1990). The petitioner failed to articulate, with specificity, the nature of the claimed specialized knowledge. While the beneficiary's resume confirms that he has worked on [redacted] segment, it does not establish how the knowledge he used or acquired on such work rises to the level of specialized or advanced knowledge, or why such duties could not have been performed by any experienced application engineer with Autodesk AutoCAD + FlexCAD and Configura experience.

On appeal, counsel contends that the beneficiary's familiarity with the parent company's products and systems should be considered knowledge that is specific to, or proprietary to, the parent company and therefore "specialized." Therefore, one question before the AAO is whether the beneficiary's knowledge of and experience with the petitioner's proprietary products, processes and methodologies constitutes specialized knowledge. The AAO notes that the current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that the beneficiary's knowledge be proprietary. *Cf.* 8 C.F.R. § 214.2(l)(1)(ii)(D) (1988). However, the petitioner might satisfy the current standard by establishing that the beneficiary's purported specialized knowledge is proprietary, as long as the petitioner demonstrates that the knowledge is either "special" or "advanced." By itself, simply claiming that knowledge is proprietary will not satisfy the statutory standard.

All employees can be said to possess unique skills or experience to some degree. The statement provided by [redacted] suggests that similarly-employed workers in the petitioner's group of companies work with clients in various industries and may come to specialize in one or more industry segments if they show a particular talent for designing solutions for such segment. Therefore, it appears that many engineers would possess specific knowledge relative to one or more industry segments. The fact that the beneficiary is claimed to possess very experience with developing solutions within a particular industry segment does not establish that the beneficiary's knowledge is indeed special or advanced in relation to similarly-employed workers within the company. The petitioner implies that merely working in the company's tissue industry segment for a significant length of time is sufficient to bestow "special knowledge" or an "advanced level of knowledge." However, all application engineers working in the tissue industry segment would reasonably be familiar with its internal processes and methodologies for conducting such work. Again, 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 and explain how and when the

beneficiary gained such knowledge. Merely stating that he will continue working in the same industry segment is not sufficient to satisfy the petitioner's burden of proof.

Counsel states that the petitioner needs to quickly assemble a team of engineers for the new [REDACTED] and argues it would be impractical and time-consuming to train an employee to perform the beneficiary's duties. Although the petitioner's [REDACTED] suggests that this training would take "more than several months" to acquire within the petitioner's organization, the beneficiary's supervisor, [REDACTED], has not indicated that the beneficiary himself received any specific formal training upon beginning work in [REDACTED] tissue industry segment in October 2008, in either the company's internal policies and procedures or in the subject matter related to his [REDACTED] industry assignments. The beneficiary's resume lists training in [REDACTED] (2007), IT-Coordination training (2008), and training in [REDACTED] conveyor (2010). The petitioner has not documented any other training completed by the beneficiary or provided any additional information regarding the nature, length or content of the three training courses briefly outlined in the beneficiary's resume. The petitioner has also not explained how any of this training relates to the beneficiary's proposed duties.

It appears that many similarly-employed workers within the petitioner's group would have received essentially the same training. Although the director specifically requested such information, the petitioner has not specified the amount or type of training its application engineers receive in the company's tools and procedures and therefore it cannot be concluded that its processes and products are particularly complex or different compared to those utilized by other companies in the industry, or that it would take a significant amount of time to train an experienced application engineer who had no prior experience with the petitioner's [REDACTED]

Upon review, in every instance where the petitioner attempted to distinguish the beneficiary as having specialized knowledge, the petitioner failed to submit any evidence that would allow the AAO to evaluate the claim. The petitioner submitted minimal initial evidence in support of the petition, prompting the director to issue a detailed request for evidence. The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

The petitioner's response to the director's request for evidence consisted solely of two letters (one of which referenced a different company employee), a business review providing a general overview of the petitioner's business, and a proposed position description that appeared to describe a different position when compared to description described in the job offer letter provided at the time of filing. This information provided little additional insight into the nature of the beneficiary's specialized knowledge, his current duties or the proposed position in the United States and was responsive to only a small portion of the requests made in the RFE. On appeal, counsel essentially re-states the unsupported assertions made in response to the director's request for

evidence. 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. Again, any 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).

The AAO does not dispute that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. There is insufficient evidence to establish, however, that the beneficiary has any knowledge that exceeds that of any experienced application engineer in the petitioning company or that he has received special training in the petitioning company's products, methodologies or processes which would separate him from any other worker employed within the industry at-large.

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 petitioner's claims fail primarily on an evidentiary basis. 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.

IV. Conclusion

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.