



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 29 2013**

Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner: [REDACTED]

Beneficiary: [REDACTED]

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 nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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, states that it operates a technology business. The petitioner claims to be the parent of [REDACTED] located in Nuremberg, Germany. The petitioner seeks to transfer the beneficiary to the United States to serve in a specialized knowledge capacity, as a support engineer, for an initial period of three years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge and that the beneficiary has been and would be employed in a capacity 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. On appeal, counsel for the petitioner asserts that "the record amply shows that [the beneficiary] possesses unique knowledge that clearly meets the statutory definition." Counsel for the petitioner submits a brief and additional evidence 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 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 addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge and whether the beneficiary has been and would be employed in a capacity that requires specialized knowledge.

The petitioner indicated on the Form I-129, Petition for a Nonimmigrant Worker, that it operates a technology business with 204 current employees and a gross annual income of \$37,900,000. The Form I-129 indicates that the beneficiary would be employed as a support engineer at the U.S. company. In support of the petition, the petitioner submitted a letter describing the requirements for the United States position as follows:

[The petitioner] requires a support engineer who has a minimum of six (6) years experience with profound [redacted] architecture know-how and its specialized hardware. The hardware consists of self-developed test interfaces as well as SIM (subscriber identity module) multiplexing, a technology for using mobile phone SIM cards remotely while the SIM cards are physically stored in a central place. Moreover, [redacted] offers a variety of protocol testing where test probes are directly connected to the core elements of the network providers.

[The beneficiary] has had six years daily business and on-the-job training and has gained valuable experience. Anyone other than [the beneficiary] would require extensive cross-training in this time sensitive assignment and could not immediately analyze customer issues with the same efficiency.

In summary, [the petitioner] needs an employee with long term product experience in the mobile technical genre as well as technical consulting skills. [The beneficiary] has been employed for more than six (6) years in the customer support department and therefore he is the expert and his knowledge and technical experience cannot be trained remotely. The current [petitioner's] [redacted] patents are all pending and are in the process of transfer from Germany to the U.S.

The petitioner's description of the beneficiary's position at the foreign entity and the proposed position in the United States are identical. The petitioner described the job duties as follows:

Since April 2006, Beneficiary has been employed by the qualifying foreign entity, [redacted] as a Support Engineer. In this position, he performs the following duties:

- Registration, analyzing and solving of customer support requests predominantly of the US time zone regarding problems with [redacted] products [redacted] test system and [redacted]
- Written documentation of the problem solving process in a support ticketing system.
- Technical advice of customers, business partners and distributors by phone.
- On-Call duty for customers, business partners, and distributor.
- Support of colleagues of [the petitioner] in preparation of demos, workshops, and implementations, as well as participation in customer meetings.
- Preparation and realization of trainings for customers and business partners.
- Utilize comprehensive know how of the [redacted] test systems as well as profound telecommunication industry knowledge.

The petitioner submitted the beneficiary's resume listing his degree in computer science and other proficiencies in operating systems, network scripting languages, and databases. The resume does not list any internal training relating to the petitioner's proprietary systems.

The petitioner submitted a letter from the foreign entity simply stating that the beneficiary was employed as a support engineer since December 1, 2003.

The director issued a request for evidence ("RFE"). The director requested that the petitioner provide, *inter alia*, evidence that the beneficiary has specialized knowledge and evidence of the proposed specialized knowledge position in the United States.

In response to the RFE, counsel for the petitioner further explained the beneficiary's specialized knowledge and proposed position as follows:

Keynote has two proprietary products, [redacted] and [redacted] [redacted] which were designed and developed by [the foreign entity] in Germany.

* * *

Neither of these products is used by any company in the U.S., not even at [redacted] Seattle facility. [The beneficiary], will be first engineer from [redacted] to transfer the proprietary knowledge about [redacted] to [redacted] U.S. employees.

* * *

There are no other employees at [redacted] that have similar experience or position as [the beneficiary], because [redacted] two proprietary products, [redacted] were designed and developed by [redacted] in Germany. . . . Because software and support engineers at [redacted] have been maintaining and supporting these two proprietary products, there is no person in the U.S. who has experience or knowledge of [redacted] the precisely the types of expertise that [the beneficiary] will be bring[ing] to [redacted]

* * *

Because both [redacted] were designed, developed, implemented, and maintained in Germany by [redacted] there is no support expertise in the U.S. to respond to and support customer problems with these products. [redacted] support engineers have been providing support remotely from Germany, but the volume and complexity of demand from the U.S. customers has forced [redacted] to transfer [redacted] expert from Germany to meet such demand. [The beneficiary] is expected to fill this void in knowledge in the U.S. by carrying out the following duties:

- 1) Register, analyze and solve customer support requests predominantly in the U.S. regarding problems with [redacted] products [redacted]
- 2) Document [redacted] related problem processes in a support ticketing system;
- 3) Provide technical guidance to customers, business partners and distributors;
- 4) Perform On-Call duty for customers, business partners, and distributors;
- 5) Support [redacted] engineers in preparation of demos, workshops, and implementations, as well as participating in customer meetings;
- 6) Prepare and realize trainings for customers and business partners; and
- 7) Utilize comprehensive know of [redacted] test systems and [redacted] as well as profound telecommunication industry knowledge to train [redacted] engineers.

* * *

[The beneficiary] was selected to be transferred to the U.S. because he has the extensive expertise of the [redacted]

First, [the beneficiary] has an advanced degree in Computer Science from [redacted] [redacted] in Nuremberg, Germany, where he wrote his theses on [redacted]

(b)(6)

and [redacted] in 2003. Second, since April 2003, [the beneficiary] has been employed by [the foreign entity] as a Support Engineer. During his time, he has gained valuable experience and an excellent working knowledge of all components of [redacted] and [redacted] products. As stated above, the current [redacted] patents are registered in Germany, [the beneficiary] is the only one who possesses the knowledge and experience with such products. He is best fit to transfer to the U.S. to help with the patents that are transferring over. Anyone other than [the beneficiary] would require extensive cross-training in this time sensitive assignment and could not immediately analyze customer issues with the same efficiency. . . .

In summary, [the petitioner] needs an employee with long term product experience in the mobile technical genre as well as technical consulting skills. Employee, [the beneficiary] has been employed for more than six years in the customer support department and therefore he is the expert and his knowledge and technical experience cannot be trained remotely.

* * *

Since the [redacted] are both new to the U.S[.], Beneficiary will cross train the U.S. support team and both products. Once the training has been a success, the team will expand to create a bigger support team here in the U.S. which will fall under the supervision of [the beneficiary].

* * *

Since the two products have not come to the U.S. yet, there is no U.S. worker that can be trained to train others on the [redacted] If the expertise for the Beneficiary is not brought to the U.S. the U.S support team cannot service the [redacted] customer effectively.

The petitioner submitted a letter from the foreign entity describing the beneficiary's position abroad as follows:

[The beneficiary] has served at [redacted] since 1st of December 2003 as Support Engineer.

Two years before in 2001 he started as working student and gained his first experiences with the technology of [redacted] [The beneficiary] wrote his diploma thesis at [redacted] in 2003. He has more than 8 years of technology experience in the telecommunications business. As Support Engineer he continues to being [sic] responsible for technical problems of [redacted] customers. [The beneficiary] holds a degree in computer science from [redacted] in Nuremberg, Germany.

The positions that were held by [the beneficiary] during his professional career at [redacted]

[The beneficiary] started his career at [REDACTED] at 1st of December 2003 and was responsible for several customer care projects. Since 2007 [the beneficiary] is responsible for several customers within our support division. During his professional career at [REDACTED] he assumed very comprehensive tasks. Because of his technical knowledge of miscellaneous technologies he gained a wide experience of customer advisory service by telephone as well as face-to-face. Our customers are very satisfied with the technical support services of [the beneficiary].

With his extensive experience in the telecommunications industry [the beneficiary] is our best technical expert to solve customer problems in the field of mobile testing. His specific experience contains deep technical knowledge of our products [REDACTED] and [REDACTED]. [The petitioner] also sells the [REDACTED] and [REDACTED]. Because of the system complexity of the named two products we need a person who can solve technical problems for the customers.

[The beneficiary] is an ambitious, conscientious, highly-skilled technical expert. He is detail oriented and has a firm grasp of technical terms. Because of his outstanding analytical skills he is able to understand customer problems consequentially to find out very efficient approaches. Moreover [the beneficiary] has very good conceptual, interpersonnel [*sic*] and communicative skills.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge and whether the beneficiary has been and would be employed in a capacity that requires specialized knowledge. In denying the petition, the director found that the skills described for the beneficiary would not require a specialized knowledge that surpasses the ordinary or usual knowledge held commonly throughout the technology solutions field to improve the quality of service of the internet and of the mobile communications industry. The director further found that the beneficiary's training and employment experience with the foreign entity has given him the knowledge required to perform his duties competently, but cannot be considered to constitute special or advanced knowledge. The director observed that the beneficiary's duties are not so unique and out of the ordinary that their implementation requires specialized knowledge, and that the beneficiary's knowledge of the company product, or of the processes or procedures of the company, has not been shown to be substantially different from, or advanced in relation to, that of any support engineer employed by a technology solution consultancy company.

On appeal, counsel for the petitioner contends that the director "is not using the current standard for L-1B specialized knowledge because [the beneficiary] does in fact possess all the characteristics of an L-1B specialized knowledge employee." Counsel for the petitioner further contends that the director's interpretation of specialized knowledge is inconsistent with the Puleo memorandum.¹ Counsel for the petitioner argues that the petitioner submitted ample evidence clearly demonstrating the beneficiary's specialized knowledge with regard to the petitioner's product and techniques and its application in international markets. Counsel goes on to explain that the petitioner is in the process of transferring its patented software from Germany to the United States. Counsel states:

¹ Memorandum of James A. Puleo, Acting Exec. Assoc. Comm., INS, *Interpretation of Special Knowledge*, (March 9, 1994).

In order to maintain a competitive edge in the global market, it is essential for the Petitioner to employ specialized knowledge personnel who are experienced with its products which to date have been developed abroad.

... The specialized knowledge [the beneficiary] acquired in the petitioner's business practices through his successful six years of employment in the German office uniquely qualifies him for the specialized knowledge professional position of Support Engineer, possessing knowledge that is valuable to the Petitioner's competitiveness in the international marketplace. His specific experience contains deep technical knowledge [of] Keynote's products

Thus, there is no question that [the beneficiary's] expertise on and and his ability to transfer knowledge of these two proprietary products that are developed in Germany to the U.S. workforce will bolster the Petitioner's competitiveness in the market.

... Second, [the beneficiary] is uniquely qualified to contribute to the United States employer's knowledge of its products developed in Germany as a result of special knowledge not generally found in the industry. In fact, this knowledge can only be acquired through extensive training and experience within the German organization itself and cannot be easily transferred or taught to another individual without significant economic inconvenience to the United States petitioner.

Throughout his career with the German entity, [the beneficiary] has been utilized in capacities involving significant assignments on its proprietary products, and which have enhanced the productivity and competitiveness in international markets. Specifically, [the beneficiary] developed an enhancement of the database including the transfer of the stored data to graphical applications. This was one basic cornerstone for the further implementation of the drive test application which is today a successful and essential part of [The beneficiary] also designed and implemented several scripts which became important tools for the daily work for other employees and reused by customers for administrative and other tasks. Finally, he implemented the Goertzel algorithm for DTMF tone recognition which is part of every speech channel check for voice tests in [The beneficiary] is the only employee with such extensive knowledge and training of all components, including all versions of and the special knowledge of customer specifics including installation of network architecture, special requirements, and customer adaptations.

Due to the intricate and complex nature of our products, it is essential that our employees successfully complete continuous internal training. The training period consists of hands-on training as well as internal classes.

[The beneficiary's] specific capabilities comprise engineering work in the following areas:

- [redacted] patented [redacted]
- Sophisticated core network interfaces (A, Gb, ISUP, INAP, lu cs/ps);
- OS kernel integration of [redacted] components including implementation of kernel drivers; and
- [redacted] specific hardware designs.

[The beneficiary] received the following training while employed with qualifying organization:

- [redacted] architecture and design background;
- [redacted] reporting (an application for visualization measurements);
- [redacted] Testcase Editor (an application which allows customers to "write" their own tests);
- [redacted] Gb Interface installation and troubleshooting;
- [redacted] A Interface installation and troubleshooting;
- VoIP technology and implementation in [redacted]
- Voice and Video quality testing in [redacted] algorithms and measuring (KPIs); and
- Drive Testing (an application to test mobile communication in driving cars).

* * *

[The beneficiary] also defined the following workflow processes making daily business more efficient . . . :

- [redacted] Probe Management Documentation;
- [redacted] Operations Manual;
- [redacted] Extension of User Concept (in Germany); and
- [redacted] Definition of Standard Performance Tests and Reports (in German).

[The beneficiary's] extensive training on the Petitioner's proprietary products, coupled with his involvement in the design and development of those products and his extensive experience with them, make him the only employee who can transfer the necessary knowledge to the Petitioner's U.S. workforce.

* * *

The increased volume and complexity of demand from the Petitioner's U.S. customers has forced it to transfer [the beneficiary] as the [redacted] expert to meet such demand. While in the United States, [the beneficiary] will be required to cross train a team of U.S. engineers on both products. Once the training has been a success, the team will expand to create a larger bigger support team here in the U.S. which will fall under the supervision of [the beneficiary]. This strategic move at this time is incredibly valuable to the Keynote's continued success and competitiveness in the global market place.

* * *

[The beneficiary's] proposed duties in the United States clearly mirror those he has performed at the qualifying organization. [The beneficiary] is charged with the responsibility of analyzing problems with [redacted] proprietary products; documenting [redacted] and [redacted] related problem processes; providing technical guidance to customers, business partners, and distributors; performing on-call duty for customers, business partners, and distributors; supporting [redacted] engineers in preparation of demos, workshops, and implementations; participating in customer meetings; preparing and realizing trainings for customers and business partners; and utilizing comprehensive knowledge of [redacted] test systems and [redacted]

To date, the above-noted duties have been unique to [the beneficiary's] position. There are no other engineers within the [redacted] organization that are responsible for the same critical duties. While in the United States, [the beneficiary] will be required to transfer his specialized knowledge about [redacted] and [redacted] U.S. engineers. Again, it is critical at this stage in the organization's growth to cross-train its engineers so that they are well prepared to adequately address the organization's needs when transferring its patents from Germany to the United States.

Upon review, the petitioner's assertions are not persuasive. The petitioner has not established that the beneficiary possesses specialized knowledge and whether the beneficiary has been and would be employed in a capacity that requires specialized knowledge.

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. 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 part 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.

Here, the petitioner claims that the beneficiary has "special knowledge of the company product and its application in international markets." See Section 214(c)(2)(B) of the Act.

In examining the beneficiary's specialized knowledge and whether the offered position requires specialized knowledge, 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.*

The petitioner has failed to provide a consistent description of the beneficiary's qualifications, experience, and knowledge. For example, in the initial evidence, the petitioner stated that it required a "support engineer who has a minimum of six years experience with profound [redacted] architecture know-how and its specialized hardware." The petitioner's initial letter of support stated that the beneficiary has been employed by the foreign entity since April 2006, only three years and four months prior to the filing of the petition. In response to the RFE, the petitioner stated that the beneficiary's employment with the foreign entity began in April 2003. A letter submitted by the foreign entity verifies the beneficiary's employment beginning on December 1, 2003, only 5 years and 8 months prior to the filing of the petition. The petitioner does not list any additional requirements to establish specialized knowledge for the position in the United States and the contradictory evidence presented as to the beneficiary's experience is not sufficient to establish that he meets the requirements set forth by the petitioner to qualify for the position in the United States. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). 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).

Additionally, the petitioner's description (initially and in response to the RFE) of the beneficiary's qualifications list the beneficiary's current duties at the foreign entity and his knowledge and experience with the petitioner's proprietary tools. The petitioner did not list any internal training requirements or completion, nor did the petitioner indicate that the beneficiary was involved in the design or development of the proprietary products. The beneficiary's resume, submitted with the initial evidence, does not indicate that he was involved in the design and development of the proprietary products, nor does it list any internal (or other) training completed. On appeal, counsel for the petitioner expands the beneficiary's qualifications for specialized knowledge by stating that he "developed an enhancement of the [redacted] database . . . [and] also designed and implemented several scripts which became important tools for the daily work of other employees" Counsel further states that the beneficiary received training while employed by the foreign entity and lists eight different topics of training. On appeal, a petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). Additionally, 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). 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 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

Given the inconsistent evidence presented by the petitioner about the beneficiary's experience and qualifications, the AAO is not in a position to determine the beneficiary's actual specialized knowledge. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). 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 record contains inconsistent evidence pertaining to the beneficiary's qualifications and experience that would distinguish the beneficiary's knowledge as more specialized or advanced than the knowledge possessed by others employed by the petitioner.

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.

III. 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 the petitioner has not met that burden.

ORDER: The appeal is dismissed.