



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **AUG 29 2014** 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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg

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 appeal will be dismissed.

The petitioner filed a Form I-129 Petition for a Nonimmigrant Worker seeking to qualify 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 California limited liability company established in [REDACTED] is engaged in garment design, trade and distribution. The petitioner states that it is an affiliate of [REDACTED] located in Vietnam. The petitioner seeks to employ the beneficiary as a designer in its new office in the United States for a period of one year.

The director denied the petition, concluding that the petitioner had failed to demonstrate that the beneficiary possesses specialized knowledge or that she will be employed in a capacity requiring specialized knowledge.

On appeal, counsel contends that the director erroneously relied on the U.S. Department of Labor (DOL) Occupational Outlook Handbook (OOH) description of a fashion designer to determine whether the beneficiary has been or would be employed in a position requiring specialized knowledge. Counsel states that the beneficiary has special and advanced knowledge of the foreign entity, and its related affiliates, products and processes and their application to the new U.S.-based business.

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, Petition for a Nonimmigrant Worker, 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.

The regulation at 8 C.F.R. § 214.2(l)(3)(vi) further provides that if the petition indicates that the beneficiary is coming to the United States in a specialized knowledge capacity to open or be employed in a new office, the petitioner shall submit evidence that::

- (A) Sufficient physical premises to house the new office have been secured;
- (B) The business entity in the United States is or will be a qualifying organization as defined in paragraph (l)(1)(ii)(G) of this section; and
- (C) The petitioner has the financial ability to remunerate the beneficiary and to commence doing business in the United States.

II. THE ISSUE ON APPEAL

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

A. Facts

The petitioner filed the Form I-129 on August 8, 2013. The petitioner states that it is wholly owned by [REDACTED] an equity joint venture between [REDACTED]. A business plan submitted by the petitioner indicated that [REDACTED] "is a major clothing retailer in Vietnam, with more than 180 stores across the country," and that [REDACTED] "is a highly successful garment manufacturer in Vietnam with over 3,500 workers at three large production facilities." The petitioner states that it "seeks to combine the manufacturing capabilities of [REDACTED] and the marketing, designing and branding capabilities of [REDACTED] to cut out the middle man, and have one fluid process of providing finished products to consumer retailers." Consistent with this strategy, the petitioner explained that these two foreign partners have committed to providing an "immense financial commitment" in the petitioner to launch its operations in the United States.

The petitioner stated that the beneficiary was employed as a fashion designer/merchandiser for [REDACTED] beginning September 2009 through December 2012. The petitioner described the beneficiary's experience with the foreign entity as follows:

[The beneficiary] knows and was involved in developing [REDACTED] methods of creating designs based on customer base and current fashion trends. [The beneficiary] knows [REDACTED] manufacture process for export orders from first-kit sample to mass-production and final arrangement delivery to customers. She is familiar with the designs and fabrics of the [REDACTED] brand, [REDACTED] timelines and methods of production, and [REDACTED] networks of suppliers for source materials. As [the petitioner] will leverage existing relationships between [REDACTED] and its suppliers, [the beneficiary's] knowledge of these suppliers is essential. She has a history of negotiating with these suppliers and can achieve lower costs based on this experience. [The beneficiary] has also worked directly with vendor clients and understands the culture and philosophy of [REDACTED] which will need to be imparted to every interaction with a client in the United States.

In addition, the petitioner submitted a support letter from the President of [REDACTED] providing further detail as to the beneficiary's duties abroad, stating as follows:

- Analyzed current fashion trends and predicted upcoming trends through journals, magazines, blogs and fashion shows.
- Sourced product materials and accessories from various suppliers to develop product ranges.
- Visited textile showrooms to keep up-to-date on the latest fabrics.
- Designed and developed new apparel and embroidery designs according to the latest forecast (new fabric, prints and trims sourced) and brand style guides to promote [REDACTED] Brand.
- Examined sketches, sample articles and design specifications to ascertain number, shape and size of pattern parts.

- Suggested style changes to the creative team.
- Decided and managed product pricing, supplier margins, and customer discounts.
- Worked with technical design and product management to ensure design packages were accurate and complete.
- Achieved costing and aesthetic goals for the seasonal fabric palette.
- Performed administrative work including supplier contracts, purchase orders, inventory management, and sales tracking.
- Negotiated and followed up with vendors on availability, product specs, distribution, delivery deadlines and prices.
- Worked with the store manager to ensure an effective store layout & design and in-store product placement.
- Traveled to store locations to review product mix, obtain feedback and share information.

The petitioner further provided internal payroll documentation for the sales department of the foreign entity dating from December 2011 through December 2012. The most recent payroll statement indicated that the beneficiary's job title is "merchandiser." The payroll statement indicates that the sales department includes a sales manager, a total of seven merchandisers, two merchandiser assistants, two sales staff, and one assistant.

The petitioner submitted a business plan further detailing its plans in the United States. It stated that it intends to "work closely with each customer to recommend merchandise uniquely designed for their retail base, as well as appropriate inventory levels, pricing and display assortments." The petitioner stated that it plans to partner with its affiliates in Asia to serve U.S. based customers and to provide design and market research, marketing, sales, placement of orders, representation of customers, and importation and domestic distribution. The petitioner explained that it plans to pass orders to [REDACTED] and that the manufacturing will be done by [REDACTED] and that fabric sourcing will be done from a branch office in Hong Kong. In the business plan, the petitioner indicated that the beneficiary will "conduct market research on consumer trends and tastes; develop merchandise concepts (fabric and design) for trade shows and customers; and present ideas to customers." The petitioner further stated that the beneficiary will work with affiliates in Vietnam to "ensure the correct execution of merchandise concepts." The petitioner indicated that the projected start-up capital will be \$75,000 to \$100,000 and it projected that it would earn over \$4 million in sales during the first year.

The director later issued a request for evidence (RFE). In the RFE, the director stated that the initial evidence was insufficient to establish that the beneficiary's position abroad involved specialized knowledge. The director noted that the petitioner had failed to compare and contrast the beneficiary's duties against others performing the same type of work. As such, the director requested that the petitioner submit: (1) a more detailed description of the beneficiary's duties, including an indication of why others had not acquired the beneficiary's asserted specialized knowledge, and an explanation as to how her knowledge is different from other fashion designers/merchandisers employed by the foreign entity or others similarly employed in the industry and (2) a foreign organizational chart indicating the beneficiary's department, the employees therein, their job titles and a summary of their duties, education levels and salaries. Likewise, the director requested similar evidence relevant to the beneficiary's employment in the United States, as well as information

regarding any training the beneficiary will provide in the United States and a similar organizational chart relevant to the petitioner.

The director noted that the petitioner had not submitted sufficient evidence to demonstrate that the beneficiary's knowledge is uncommon, noteworthy, or distinguished by some unusual qualification. Therefore, the director asked that the petitioner submit: (1) documentary evidence of the beneficiary's educational experience; (2) a more detailed description of the beneficiary's asserted specialized knowledge, including the minimum time required to obtain the beneficiary's level of knowledge and the specific products and/or processes involved; (3) an indication of the total number of employees abroad and in the U.S. that have acquired the same level of knowledge as the beneficiary and how the beneficiary is set apart from these employees or other similarly employed persons in the field; (4) documentation evidencing the beneficiary's completion of training and how this establishes the beneficiary's knowledge is special or advanced; and (5) an indication of whether the beneficiary held proprietary knowledge, and if so, a comparison of this knowledge against that of others similarly placed in the field.

In response to the RFE, counsel reiterated that the beneficiary holds special knowledge of the foreign entity's "product line, design and manufacturing capabilities and marketing techniques, as well as the aesthetics, brand identity and values." Counsel indicated that another employee would be forced to train under the company's leadership for at least one year to become familiar with the company's manufacturing techniques and supplier relationships and gain the same level of knowledge as the beneficiary. Counsel stated that the beneficiary has established relationships with the company's vendors which "cannot be created overnight."

The petitioner submitted an additional support letter from the president of the foreign entity reiterating many of its previous statements regarding the beneficiary's asserted knowledge. For instance, Mr. [REDACTED] President of [REDACTED] stated that during her time with the foreign entity, the beneficiary "developed an in-depth knowledge of the Asian-based clothing production market," and that "she gained the ability to work with [REDACTED] primary clients and predict their needs." Mr. [REDACTED] indicated that the beneficiary had become "an expert in fabric," and that she is "able to interpret technological innovations, economic developments, and international trade climates in terms of how they will affect [REDACTED] unique brand." Mr. [REDACTED] stated that no other employee has the beneficiary's knowledge of fabric types and pricing, and by using this knowledge "she will be able to set the client's expectations for the potential cost of production." The letter further explained that the beneficiary is very familiar with the company's original design manufacturing (ODM) process and that the application of this knowledge is essential to keeping the petitioner profitable. Mr. [REDACTED] indicated that the beneficiary "is the only person employed by [REDACTED] who would be able to carry out these duties as necessary," and that the knowledge "can only be gained through prior experience with the internal operations system as well as in-depth understanding of the products and strategies developed by [REDACTED] in Vietnam."

The petitioner provided another foreign organizational chart in response to the RFE specifying that the beneficiary worked in both the [REDACTED] and the "Export Product" departments. The chart identified ten other departments within the organization, including but not limited to, "Sales/Merchandise," "Production Planning," "Merchandise," "[REDACTED]" and [REDACTED] departments. A list accompanying the organizational chart listed five other employees

within the [REDACTED] Products" department devoted to types of garments, such as "Women's Woven Shirt/Dress," and "Women's Knit T-shirt." The listed employees were largely consistent with the merchandisers listed in the previously submitted payroll documentation. The beneficiary was shown to focus on certain products not covered by the other members of her department, including men's woven shirts, shorts, pants and jackets. In the "Export Products" department the list indicated that the beneficiary had two assistants reporting to her. The chart did not provide any information on the education and experience of the members of the beneficiary's departments. The petitioner's proposed organizational chart indicates that the beneficiary will report to the petitioner's president and that she will supervise a "full-time American designer" and a "freelance American designer."

The petitioner also submitted an academic equivalency evaluation from [REDACTED] concluding that the beneficiary had received the equivalent of a four year Bachelor of Fine Arts degree in fashion design from the [REDACTED] in the United Kingdom.

In denying the petition, the director stated that the duties submitted for the beneficiary are similar and typical of fashion designers and merchandisers in the industry, noting the position description's similarity to the DOL's OOH description of a fashion designer. The director concluded that the petitioner had not established that the beneficiary's knowledge of the company's technologies, policies, processes, and methodologies was specialized and advanced, or significantly different from knowledge held by others similarly placed in the field.

On appeal, counsel contends that the director erroneously relied on the Department of Labor's description of a fashion designer and asserts that reliance on this description is not proper, since it is not mandated by the regulations. Counsel states that it is wholly normal and appropriate that the beneficiary's duties are similar to the description. Counsel asserts that the beneficiary has advanced knowledge of the company's processes and procedures and special knowledge of the company's products and their application to international markets. Counsel states that the beneficiary's special knowledge allows her to create designs consistent with the company's brand, and that this knowledge that can only be gained through experience with the foreign entity.

Counsel further references memorandums issued by former INS director James A. Puleo in March 1994 and Fujie Ohata in December 2002. *See* Memorandum from James A. Puleo, Assoc. Comm., INS, "Interpretation of Specialized Knowledge," March 4, 1994 (Puleo Memorandum) and Memorandum from Fujie O. Ohata, Assoc. Comm., INS, "Interpretation of Specialized Knowledge," December 20, 2002. Counsel states that these memorandums establish that a worker has special knowledge if the petitioner establishes that the knowledge is valuable to the employer's competitiveness in the marketplace, that the petitioner would suffer economic inconvenience or disruption if it had to hire another for the U.S. position, that the knowledge is not generally found in the industry, and/or if the knowledge can only be gained through prior experience with the employer. Counsel states that in the present matter, that the petitioner has submitted sufficient evidence to establish each of the above requirements.

2. Analysis

Following a review of the totality of the evidence submitted, the petitioner has not established that the

beneficiary possesses specialized knowledge or that she will be employed in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

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. 369, 376 (AAO 2010). In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.* 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.

In order to establish eligibility, the petitioner must show that the individual's prior year of employment abroad was in a position involving specialized knowledge. 8 C.F.R. § 214.2(l)(3)(iii). 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.

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. 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.

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 advanced or special, and that the beneficiary's position requires such knowledge.

In the present matter, the petitioner has provided an insufficient explanation of the beneficiary's claimed specialized knowledge. The petitioner states that the beneficiary holds special and advanced knowledge of [REDACTED] brands, designs, products lines, manufacturing techniques, suppliers, use of fabrics, amongst other examples of institutional knowledge within its greater corporate structure, and that of joint venture partner [REDACTED]. However, at no point on the record has the petitioner provided details or supporting evidence to substantiate these claims, such as specific brands or product lines the beneficiary has worked with or designed, information or explanations of the manufacturing techniques of [REDACTED] or suppliers with which she has built unique relationships. Further, the petitioner has not specifically described how the beneficiary gained this knowledge through a discussion of the products, designs, or

projects on which she worked while with the foreign entity. The director requested this level of detail in the RFE, but the petitioner's response included only vague and generalized descriptions of the beneficiary's claimed specialized knowledge. It is not sufficient to merely state that the beneficiary is the most knowledgeable of company's products and processes, absent clear descriptions and documentation of such products and processes. In the present matter, the petitioner has failed to provide this evidence beyond submitting articles regarding the growth of the Vietnamese garment industry and its lack of design expertise. The provided articles only leave more question as to whether the beneficiary possesses specialized knowledge when compared to other colleagues outside of the company. 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 how the beneficiary uses it. 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'l Comm'r 1972))

In addition, the petitioner has not provided evidence that compares the beneficiary with similarly employed workers within or outside the company as necessary to demonstrate that her knowledge is special or advanced. The beneficiary's knowledge must be distinguished as different from knowledge that is commonly held by other designers and merchandisers in the industry or advanced in comparison to other similarly-employed workers in the organization. Therefore, as detailed above, the director requested that the petitioner submit various forms of evidence relevant to distinguishing the beneficiary's knowledge as special or advanced. However, the petitioner's response to the RFE included minimal evidence relevant to comparing the beneficiary against similarly employed workers, and therefore failed to establish her knowledge as special or advanced. The petitioner did not submit duty descriptions and levels of education for the beneficiary's colleagues, which include five other merchandisers working directly in her department. 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).

Likewise, the petitioner lists various other product, manufacturing and merchandising departments within its organizational structure, suggesting that there are likely many other employees working for the foreign entity, and its joint partner, holding knowledge of each entity's designs, manufacturing techniques, use of fabrics, and other products and processes. Indeed, the petitioner explained that it plans to pass orders to [REDACTED], that the manufacturing will be done by [REDACTED] and that fabric sourcing will be done from a branch office in Hong Kong, indicating that others within the foreign entity and [REDACTED] hold knowledge similar to the beneficiary's. Without sufficient detail on the beneficiary's colleagues and how her knowledge is set apart from them, it cannot be determined whether her knowledge is special and advanced by comparison. In addition, the petitioner provides no comparisons of the beneficiary against other designers and merchandisers in the industry. It is reasonable to conclude that there are many other merchandisers and designers with unique knowledge of their companies' designs, manufacturing processes, use of fabrics, and other products and processes. 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 petitioner has not established that this type of internal or institutional

knowledge is truly special or advanced, or whether it is the type of knowledge that any designer or merchandiser is able to readily learn on the job.

Overall, the petitioner has not consistently explained the nature or specifics of the beneficiary's claimed knowledge, documented when or how she acquired such knowledge, or explained why such knowledge is necessary to the performance of her proposed job duties in the United States. As such, the evidence as a whole is insufficient to support a finding that the beneficiary possesses special knowledge by virtue of her training or experience with the foreign entity. In fact, the petitioner states a number of times on the record that the beneficiary's knowledge was gained from market research, understanding of client needs, and knowledge of suppliers, leaving question as to whether this knowledge can only be obtained through experience with the foreign entity. It is reasonable to conclude, without evidence to the contrary, that other similarly placed Vietnamese textile companies have similar knowledge of the marketplace, client needs, and suppliers. Moreover, the petitioner's products have not been established as "specialized." Rather, the petitioner must establish that qualities of the process or product require this employee to have knowledge beyond what is common in the industry. This has not been established in this matter. Again, 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)).

Counsel states on appeal that the definition of specialized knowledge is clearly defined in the Puleo and Ohata memorandums and contends that this USCIS policy guidance establishes that a petitioner need only demonstrate that a beneficiary's knowledge is valuable to the employer's competitiveness in the marketplace, that the petitioner would suffer economic inconvenience or disruption if it had to hire another for the U.S. position, that the knowledge is not generally found in the industry, and/or that the knowledge can only be gained through prior experience with the employer. First, it should be noted, as previously discussed, that the petitioner has not demonstrated that the beneficiary's knowledge is valuable in the marketplace or that her failure to be placed in the United States would cause a financial disruption. The petitioner has not specifically described the knowledge the beneficiary possesses or compared the beneficiary against any other similarly placed colleagues inside or outside the organization to demonstrate that her knowledge is valuable or not easily replaced. Likewise, due to the same lack of description, evidence and comparisons, the petitioner has not shown that the beneficiary's knowledge is not generally found in the industry. In fact, articles submitted on the record indicate otherwise, since they demonstrate the growing nature of the Vietnamese garment industry and the other foreign entity competitors providing similar services. Finally, the petitioner asserts that the beneficiary's knowledge is also based in knowledge of industry trends, suppliers, and client needs, which are inherently available outside of the foreign entity's organization as well.

However, these factors represent only some of the potential factors to be considered in making a determination of specialized knowledge. Both the Puleo and Ohata memos state the following with respect to a petitioner's burden in demonstrating specialized knowledge:

From a practical point of view, the mere fact that a petitioner alleges that an alien's knowledge is somehow different does not, in and of itself, establish that the alien possesses specialized knowledge. The petitioner bears the burden of establishing through the submission of probative evidence that the alien's knowledge is uncommon, noteworthy, or

distinguished by some unusual quality and not generally known by practitioners in the alien's field of endeavor. Likewise, a petitioner's assertion that the alien possesses an advanced level of knowledge of the processes and procedures of the company must be supported by evidence describing and setting apart that knowledge from the elementary or basic knowledge possessed by others. It is the weight and type of evidence, which establishes whether or not the beneficiary possesses specialized knowledge.

As stated in the Puleo memo, the petitioner must establish through the submission of probative evidence that the alien's knowledge is uncommon, noteworthy, or distinguished by some unusual quality, and not generally known by practitioners in the alien's field of endeavor. Here, the petitioner has failed to describe the actual nature of this knowledge or document its existence. Further, the petitioner has not compared the beneficiary's knowledge to that possessed by other similarly placed persons within or outside of the foreign entity to demonstrate that it is uncommon, noteworthy, or distinguished by some unusual quality. It is not sufficient to merely state that the beneficiary is the most knowledgeable, but this must be established, as stated in the Puleo and Ohata memorandums, with supporting evidence. The petitioner suggests that the foreign entity's products and processes are uncommon and unique, but presents no evidence to support this assertion. The petitioner need not offer an entirely unique, proprietary product, but it must submit sufficient information to establish that the knowledge required for both the foreign and U.S. positions could not be readily conveyed to another fashion designer with similar skills, such that the knowledge is truly special or advanced. Once again, 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.

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 or that she 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

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.