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



U.S. Citizenship
and Immigration
Services

DATE: **JUN 02 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 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 is a Delaware limited liability company engaged in the development of automotive electronics. It claims to be an affiliate of [REDACTED] Ltd, a company located in the United Kingdom. The petitioner seeks to employ the beneficiary in a specialized knowledge capacity, as an [REDACTED] Support & IT Engineer for a period of three years.

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

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the matter to the AAO for review. On appeal, counsel asserts that the record demonstrates that the beneficiary has the requisite specialized knowledge of the petitioner's [REDACTED] system and the development of its [REDACTED] products. Counsel submits a brief and 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 parent, subsidiary, or affiliate of the foreign employer.

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(1)(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 (1)(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 issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge and whether the beneficiary has been employed abroad, and would be employed in the United States, in a position that requires specialized knowledge.

A. Facts

The petitioner filed its Form I-129 on June 11, 2013. The petitioner indicates that it is engaged in the development of automotive electronics and it seeks to employ the beneficiary as an [REDACTED] Support & IT Engineer.

In a letter dated June 5, 2003, the petitioner provided the following explanation of [REDACTED]

[REDACTED]

The petitioner stated that its access to this high quality system, software, hardware and prototyping intellectual property gives its system and design engineering specialists the ability to achieve a rapid proof of concept and smooth transition to production.

The petitioner stated that the beneficiary will be the primary technical interface for [REDACTED] related sales activity and after-sales service and will be responsible for all aspects of information and communications technology (ICT) support for company. Specifically, the petitioner described the beneficiary's duties as follows:

- [interfacing technically with customers to develop a clear understanding of their requirements;
- providing advice to clients on product selection;
- enhancing customer engagement and experience through strategic improvements to service, communication, and sales and build recurring license revenue;
- providing insightful feedback through interaction with [REDACTED] users (both internal and external); providing on-site and remote product support as required;
- developing the customer support infrastructure (FAQ, Help desk, discussion groups etc.);
- assisting project teams where necessary in using [REDACTED] through training, continual improvement and efficiency of tools and infrastructure;
- supporting the Business Development team in responding to sales inquiries with [REDACTED] technical and commercial information;
- assisting in generating quotations for [REDACTED] family products in accordance with company standards and practices;
- supporting the Marketing team to actively engage with customer base; maintaining and improving current marketing collateral, including technical documentation and demonstrators for [REDACTED] products on the website;
- evaluating user needs and system functionality;
- scheduling upgrades and security backups of hardware and software systems; researching and installing, supporting and maintaining new server hardware and software infrastructure;
- ensuring the smooth running of IT systems, including anti-virus software, print services and email provision;
- providing secure access to the network for remote users; ensuring the security of data from internal and external attack, keeping up to date with the latest technologies;
- undertaking routine preventative measures and implementing, maintaining and monitoring network security;
- planning and implementing future IT developments and undertaking project work; providing training and technical support for users with varying levels of IT knowledge and competence;
- setting-up user accounts, permissions and passwords; analyzing and resolving faults with computer systems and networks; supporting the website and keeping internal networks running; and supporting telephone systems.

(Bullets added).

In order to establish that the beneficiary has the requisite specialized knowledge the petitioner stated that the beneficiary has over 12 years of IT and network engineering experience, including over seven years with the petitioner's foreign affiliate. Thus, the petitioner concluded that the beneficiary "brings specialized expertise and knowledge in these fields to the proposed position in the United States" and that he is the only employee "wholly dedicated to providing technical support for [REDACTED] products, IT systems (ie. firewall, servers, network, etc.) and infrastructure (ie. switches and routers)." The petitioner provided screenshots of helpdesk tickets resolved by the beneficiary and a chart depicting the IT and network infrastructure he manages.

With respect to the beneficiary's foreign employment, the petitioner stated that the beneficiary held the position of Senior IT Systems Engineer from September 2005 until April 2012, in which he was responsible for all aspects of its affiliate's internal ICT support. The petitioner indicated that the beneficiary assumed the position of [REDACTED] Support & IT Engineer in April 2012 and currently performs duties that are similar to his proposed duties in the United States. The petitioner described these duties as:

- providing engineering support to our [REDACTED] customer base covering a wide range of [REDACTED] controllers;
- developing external customer support infrastructure (FAQ, Help desk, discussion groups etc.);
- providing internal technical support infrastructure on programs using [REDACTED] products;
- leading [REDACTED] customer technical and sales support requests;
- supporting development of the licensing strategy for [REDACTED] tools and software products;
- maintaining the design and integrity of the company's network, hardware and software systems, along with coordinating complex projects;
- installing and configuring operating system software plus third-party system tools, database systems, applications and products;
- performing software upgrades and new software installation both proactively and in response to requests from users of systems, including any necessary patches to operating systems and applications to ensure continuing stable and secure operation;
- implementing appropriate data access and security measures, including access control, audit, backup/restore and system rebuild and recovery processes, in order to safeguard data integrity and maximize availability;
- working with the IT Facilities Manager, implement and test Business Continuity measures in order to enable continued operations of computer systems identified as requiring such protection in accordance with the corporate Disaster Recovery program;
- supporting Subversion (SVN) and Visual SourceSafe (VSS) document control systems critical to our engineering development;
- maintaining and supporting business critical tools such as vTiger, Whizible, Fogbugz, Shurtime, external website;
- facilitating customization of SAGE to support product tracking and financial management;

- supporting Checkpoint NGX Firewalls, VPNs, remote access & 2-factor authentication, across 2 sites; installing and managing Arcserve Backup software;
- managing a Nortel Meridian Digital phone system;
- supporting users across multiple sites and remote workers in India;
- specifying order, assembling, configuring and installing hardware.

In order to illustrate the nature of the beneficiary's work, the petitioner provided documentation showing how the beneficiary responds to and tracks IT and network support requests from users in the United Kingdom and United States. The petitioner provided a chart indicating that the beneficiary closed 2,789 help desk tickets from September 2005 through May 3, 2013. The tickets and screen shots tend to indicate that the beneficiary handled a wide range of IT helpdesk related issues for the company's employees related to e-mail, passwords, VPN access, and business applications such as Microsoft Lync. The petitioner also included a screenshot depicting a list of 15 potential support renewal accounts assigned to the beneficiary during 2012 and 2013.

The director issued a Request for Evidence (RFE) on June 24, 2013. In this RFE, the director advised the petitioner that its initial evidence was insufficient to establish that the beneficiary possesses specialized knowledge or that he has been and would be employed in a capacity requiring specialized knowledge. The director provided a list of suggested additional evidence, which included more detailed descriptions of the beneficiary's current and proposed duties and organizational charts for both the U.S. and foreign entities. The director further advised the petitioner that the evidence of record did not establish how the beneficiary's knowledge is special or advanced compared to similarly-employed workers in the industry, and noted that the petitioner did not provide evidence of the beneficiary's training or an explanation of how the beneficiary's knowledge and training differ from that of his peers. The director therefore suggested that the petitioner specifically identify the nature of the beneficiary's specialized knowledge, the amount of time required to obtain this knowledge, and whether the knowledge is possessed by other workers. The director further requested documentation of the beneficiary's completion of training courses that imparted specialized knowledge, and a detailed description of any proprietary knowledge the beneficiary possesses.

In response, the petitioner submitted relevant documents including letters from the beneficiary's supervisor and the HR director at the foreign company. The beneficiary's supervisor, stated that the beneficiary was hired for the position of Senior IT Network Engineer based on his bachelor's degree in computer science and three years of experience in IT and network support, and that he has since gained "a broad spectrum of technical skills and hands-on experience." Mr. remarked upon the beneficiary's "high level of technical competence" and noted that the beneficiary attended four external training courses which included (2005), (2007), (2009), and (2012). Mr. stated that the beneficiary's completion of these courses enabled him "to amass appropriate technical skills in order to deliver business objectives," and that he is the only employee within the foreign or U.S. entities "who has this level of specialized knowledge within the business." Mr. indicated that the company expanded the beneficiary's role to include technical support for based on his past performance. He did not indicate that the beneficiary had any previous experience with products or completed any training prior to assuming this expanded role.

The petitioner also provided a letter from the foreign entity's human resources director, who confirmed that the U.S. and foreign entities employ a total of approximately 75 employees. In a letter submitted in support of the RFE response, counsel concluded that the beneficiary is "the only one with the specialized knowledge of the [REDACTED] system as the company's IT Engineer" and "represents 1/75th of the company's total population." Counsel asserted that "this fact emphasizes the uncommon nature of the beneficiary's specialized knowledge of the [REDACTED] system."

The petitioner included an organizational chart and asserted that the beneficiary is the primary IT specialist working on the [REDACTED] system in the United Kingdom. The petitioner submitted a multi-page organizational chart with one page entitled "Central Services" and depicting the beneficiary as the sole IT subordinate to IT/Facilities manager, [REDACTED]. The petitioner included the beneficiary's most recent performance review in which the beneficiary stated that his expanded role incorporating [REDACTED] has enabled me to diversify my existing knowledge base and assist a different set of customers both internal developers and external customers who have purchased [REDACTED].

In response to the director's request for a more detailed description of the beneficiary's duties, the petitioner provided the following list:

- [REDACTED] Interfacing technically with customers to develop a clear definition of their requirements (5%);
- [REDACTED] Providing advice to clients on [REDACTED] product selection (3%);
- [REDACTED] Enhancing customer engagement and experience through strategic improvements to service, communication and sales and build recurring license revenue (5%);
- [REDACTED] Providing insightful feedback through interaction with [REDACTED] users (both internal and external) (5%);
- [REDACTED] Providing on-site and remote product customer support as required (5%)
- [REDACTED] Developing the customer support infrastructure (FAQ, Help Desk, discussion groups etc.) (5%);
- [REDACTED] Assisting project teams where necessary in using [REDACTED] through training, continual improvement and efficiency of tools and infrastructure (4%);
- [REDACTED] Supporting the business Development team in responding to sales inquiries with [REDACTED] technical and commercial information (5%);
- [REDACTED] Assisting in generating quotations for [REDACTED] family products in accordance with company standards and practices (5%);
- [REDACTED] Supporting the Marketing team to actively engage with customer base; maintaining and improving current marketing collateral, including technical documentation and demonstrators for [REDACTED] products on the website (5%);
- IT Engineer: Evaluating user needs and system functionality (5%);
- IT Engineer: Scheduling upgrades and security backups of hardware and software systems (4%);
- IT Engineer: Researching and installing, supporting and maintaining new server hardware and software infrastructure (3%);

- IT Engineer: Ensuring the smooth running of IT systems, including anti-virus software, print services and email provision (4%);
- IT Engineer: Providing secure access to the network for remote users (2%);
- IT Engineer: Ensuring the security of data from internal and external attack (2%);
- IT Engineer: Keeping up to date with the latest technologies (2%);
- IT Engineer: Undertaking routine preventative measures and implementing, maintaining and monitoring network security (4%);
- IT Engineer: Planning and implementing future IT developments and undertaking project work (12%);
- IT Engineer: Providing training and technical support for users with varying levels of IT knowledge and competencies (5%);
- IT Engineer: Setting-up user accounts, permissions and passwords (3%);
- IT Engineer:
- Analyzing and resolving faults with computer systems and networks (5%);
- Supporting telephone systems (2%).

The petitioner also reiterated that the original petition contained evidence of the beneficiary's specialized knowledge and resubmitted evidence of the beneficiary's resolution of numerous helpdesk requests.

The director denied the petition finding that the petitioner did not establish that the beneficiary possesses specialized knowledge or that he has been or would be employed in a position requiring specialized knowledge. The director determined that the petitioner did not submit sufficient evidence to show that the beneficiary possesses knowledge that is special or advanced in comparison to similarly-employed workers in his field. The director emphasized that the petitioner did not provide evidence of any company-specific training completed by the beneficiary which would support a finding that the claimed proprietary knowledge is sufficient complex or uncommon or that it cannot be easily transferred to other employees with similar experience.

On appeal, counsel for the petitioner asserts that the [REDACTED] product is unique to the petitioner and requires "a formidable level of engineering skill to work with and support." Counsel asserts that the record establishes that the beneficiary "possesses the requisite specialized knowledge of the Petitioner's [REDACTED] system and the development of [REDACTED] products," and that both the current and proposed positions require this knowledge. Counsel further contends that the director did not give proper weight to the petitioner's and foreign entity's letters, and emphasizes that the beneficiary's current supervisor stated that the beneficiary has "both specialized and advanced knowledge in supporting our customized IT infrastructure" as well as "specialized knowledge necessary to provide [REDACTED] technical support." Counsel also emphasizes that the foreign entity's HR director stated that the beneficiary is the only person in the entire organization "with the necessary specialized knowledge of our [REDACTED] product in a customer facing support role."

B. Analysis of Specialized Knowledge

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

In order to establish eligibility, 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 or prongs. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." See also 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

We cannot make a factual determination regarding the beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the claimed specialized knowledge, describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge. Once the petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence, which establishes whether or not the beneficiary actually possesses specialized knowledge. See *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

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

In the present case, the petitioner has not established that the beneficiary 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 beneficiary had been or will be employed in a capacity requiring specialized knowledge.

The petitioner contends that the beneficiary possesses both special and advanced knowledge necessary to support the company's IT and network infrastructure, and special knowledge necessary to provide technical support for its [REDACTED] products.

The evidence of record establishes that the beneficiary earned a computer science degree in 2002 and was hired by the foreign employer in 2005 where he performed primarily as a Senior IT Systems Engineer until April 2012, at which time his role expanded to include [REDACTED] support. While employed with the foreign company, the beneficiary completed four external computer courses that allowed him to "amass appropriate technical skills in order to deliver the business objectives." According to his supervisor this training made him the only employee having "this level of specialized knowledge within the business." However, the courses the beneficiary completed were in third-party technologies including Windows Server, Microsoft Exchange Server and Cisco, and would be considered general knowledge among IT and network support engineers. While the record establishes that the beneficiary has acquired five years of experience in supporting and upgrading hardware, servers, firewalls, networks, and third-party tools, software, databases

and business applications used by the petitioning organization, the petitioner has not established that the knowledge required to perform these types of helpdesk and technical support duties qualifies as special or advanced.

The beneficiary's supervisor indicates that he was hired for the IT and network engineer position based on his bachelor's degree in computer science and his relevant experience supporting similar technologies with unrelated employers. Based on the evidence submitted, the beneficiary's skills as a network and IT support engineer, while valuable to the petitioner, have not been shown to require the application of special or advanced knowledge, even if he is the primary IT support resource within the company. The petitioner indicates that the beneficiary was responsible for establishing the infrastructure in conjunction with the IT facilities manager; however, the record does not establish that this infrastructure, built on third-party technologies, has been customized to the point where support of the infrastructure requires the application of special or advanced knowledge that is specific to the petitioner and not available in the beneficiary's field.

The record reflects that for the 14 months preceding the filing of the petition, the beneficiary's role has been expanded to include technical support of the company's [REDACTED] products, and the petitioner indicates that the beneficiary has developed specialized knowledge of these proprietary products. The current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that the beneficiary's knowledge be proprietary. 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.

The petitioner indicates the [REDACTED]

[REDACTED] The petitioner did not indicate that the beneficiary had any exposure to [REDACTED] automotive electronics control products or platforms in his role as an IT and network engineer responsible for company-wide IT support, or that he completed any training in these products prior to or after expanding his role to include [REDACTED] support. The petitioner does not explain how or when the beneficiary acquired specialized knowledge of the [REDACTED] products.

The petitioner asserts that the beneficiary is the only employee, overseas or in the United States, with the specialized knowledge to perform the [REDACTED] support duties, but, again, the petitioner did not explain the nature of the specialized knowledge required by the position or how the beneficiary acquired it. On appeal, counsel asserts that the beneficiary possesses specialized knowledge of "the development of [REDACTED] products," despite the fact that the petitioner has not indicated that the beneficiary has performed any product development role. While the record does contain some evidence that the beneficiary has responded to technical support requests for [REDACTED] product issues, it is unclear whether his role requires special or advanced knowledge. Again, the petitioner did not indicate when or how he received the training required to support the petitioner's [REDACTED] products and his previous role did not include any duties associated with [REDACTED]

A review of the petitioner's organizational structure further undermines the petitioner's claim that the beneficiary has "unique" experience with [REDACTED]. The beneficiary's role is in the IT and facilities department of the "central services" division of the organization which also includes the finance department. At least two-thirds of the U.S. and U.K. companies' 75 employees are hardware, software and systems engineers working in the engineering division and it is reasonable to believe that such employees are involved in the actual design and development of [REDACTED] technology, as the petitioner's evidence indicates that the U.K. company's site is "the center for [REDACTED] product development." While the beneficiary may be uniquely positioned due to his dual role of supporting both internal IT systems and infrastructure and providing pre- and post-sales technical support for [REDACTED] users, the petitioner has not established how the knowledge required to perform either role qualifies as special or advanced. Again, the petitioner has not explained how the beneficiary acquired the knowledge required to support [REDACTED] products or the length of training or on-the-job experience required, and the record does not establish that his previous technical experience extends to automotive electronics or electronic controllers. We cannot conclude based on the evidence submitted that any employee with any level of knowledge of [REDACTED] qualifies as having specialized knowledge absent evidence of how the beneficiary gained his product knowledge.

Further, the beneficiary's [REDACTED] related duties, as described in the record, are vague and do not describe the specific nature of the specialized knowledge required. For example, Mr. [REDACTED] stated that the beneficiary's [REDACTED] support role involves developing an infrastructure for customer support (FAQ, Help Desk, discussion groups); setting up an internal technical support infrastructure, and supporting development of a licensing strategy for [REDACTED] tools. The beneficiary's proposed [REDACTED]-related duties include providing product selection advice, improving sales and building license revenue, providing feedback on [REDACTED] developing the customer support infrastructure, assisting the business development team with sales inquiries, assisting in generating quotations according to company policy, and supporting the marketing team. The petitioner indicates that the beneficiary will allocate only 5% of his time to providing product customer support "as required," but, overall, his proposed role as described in the record is more closely related to sales and business development support than provision of expert technical support.

Overall, the beneficiary's duty description abroad and in the United States reveal typical IT support requiring complex, but general, knowledge of network and IT systems. The evidence demonstrates the beneficiary's wide range of skills and broad base of knowledge in IT and network support but it does not establish that the beneficiary possesses skills uncommon to the industry as a whole or special knowledge of the petitioner's [REDACTED] products. The beneficiary's proficiency in performing his duties with limited specialized training suggests that the position could be filled by an equally trained and experienced IT and network specialist.

The petitioner asserts that the beneficiary is the "only person with the necessary specialized knowledge of our [REDACTED] product in a customer facing support role that enables us to adequately service our clients." The petitioner concludes that since the beneficiary is the only [REDACTED] Support & IT Engineer in the company, his knowledge is uncommon throughout the company and qualifies as specialized knowledge. While it does appear that the beneficiary may hold a unique job title within the company, the petitioner must still establish that his actual duties require the application of specialized knowledge. As stated above, we 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.

Merely claiming that the beneficiary has specialized knowledge or that he is the only one available to perform certain duties is not sufficient to establish that the knowledge he has is specialized or advanced. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner has submitted substantial evidence related to its products and extensive evidence of the beneficiary's responsibility for resolving helpdesk tickets. However, for the reasons discussed above, it has not established that his role as a network and IT engineer or his dual role as an [REDACTED] support engineer requires special or advanced knowledge.

The petitioner relies on a policy memorandum issued by the former Immigration and Naturalization Service. See Memorandum from James A. Puleo, Assoc. Comm., INS, "Interpretation of Specialized Knowledge," March 4, 1994 (Puleo Memorandum). The Puleo Memorandum concluded with a note about the burden of proof and evidentiary requirements:

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.

Id. at page 4.

We do not dispute that the beneficiary is a skilled and experienced employee who has been, and would be, a valuable asset to the petitioner. The beneficiary's duties and technical skills, while impressive, demonstrate that he possesses knowledge that is not uncommon among network and IT engineers. Furthermore, it is not clear that the performance of the beneficiary's duties would require special or advanced knowledge of the company's [REDACTED] products. Although the petitioner repeatedly claims that the beneficiary's knowledge is special and advanced, the petitioner failed to provide independent and objective evidence to corroborate such claims. 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. As discussed, the record does not establish how the beneficiary expanded his role to include [REDACTED] product support without any specialized training, and the beneficiary's duty descriptions do not specify why the role requires a special or advanced level of knowledge of these products.

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

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, 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.