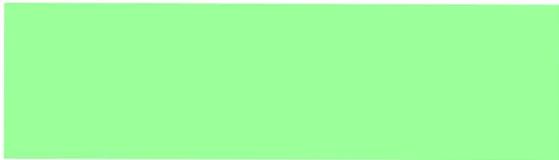




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUN 02 2014** Office: CALIFORNIA SERVICE CENTER FILE:

IN RE: Petitioner:   
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (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 AAO will dismiss the appeal.

The petitioner filed this nonimmigrant petition 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 Delaware corporation, is engaged in financial software development. The petitioner states that it is the parent company of [REDACTED] located in Argentina. The petitioner seeks to employ the beneficiary as a lead software engineer and engagement manager 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 or will be employed in a position requiring specialized knowledge.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel states that the director's decision was arbitrary and capricious and that the director failed to consider all the evidence submitted by the petitioner.

#### 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.

## **I. The Issue on Appeal**

The sole issue addressed by the director is whether the petitioner established that the beneficiary possesses specialized knowledge as a result of his foreign employment and whether he will be employed in the United States in a specialized knowledge capacity.

### **A. Facts**

The petitioner filed the Form I-129 on May 15, 2013. The petitioner states that it "engineers advanced execution platforms for algorithmic, correlation, and multi-leg trading strategies for institutional and proprietary trading firms" and that it has developed proprietary software for the purpose of facilitating stock market trading. The petitioner explained that it earned \$4,345,076 in revenue in 2011 and that it has four employees in the United States.

The petitioner indicated that the beneficiary has been working for the foreign entity as president of its career development and benefits committee since November 2012, and prior to this, he was employed as a Java performance lead developer and engagement manager since March 2012. The petitioner stated that in his current capacity, the beneficiary is responsible for "running surveys and developing Skills Matrix in order to

determine current skills-set and detect future potentiality and aspirations on contributors." The petitioner noted that the beneficiary is currently leading a team of four senior software engineers providing services for the [REDACTED]. The petitioner further explained the beneficiary's current duties as follows:

- Specify, design, develop, test, and implement Java APIs for Financial Exchanges.
- Design electronic trading components including Trading Screens, Order Management Systems, and Match Engines while conforming to [the petitioner's] process and technical standards (including performance, reliability, time to market, and costs such as supportability)
- Analyze customer and internal project requirements to implement new and enhance existing solutions
- Maintain an up-to-date knowledge of technologies including open domain standards and API specifications, Financial Information Exchange (FIX) Protocol and current developments, especially those appropriate to [the petitioner] and use that knowledge in conjunction with [the petitioner's] architectures to design appropriate solutions and transfer that knowledge, as appropriate, to other [petitioner] employees
- Installation and configuration of [petitioner's] products
- Testing of enhancements, fixes and new releases
- Develop and review technical content for user manuals

The petitioner stated that it intends to transfer the beneficiary to its Chicago office to act as lead software engineer and engagement manager. The petitioner explained that the beneficiary would be tasked with "knowing and understanding [the petitioner's] unique delivery while providing quality assurance reviews of deliverables to ensure that standards as defined by [the petitioner] are met." The petitioner further indicated that the beneficiary would be "responsible for specifying, designing, developing, testing, implementing, deploying, and maintaining electronic trading applications and components including Trading Screens, Order Management Systems, Match Engines, and Analytics." The petitioner submitted a proposed U.S. duty description for the beneficiary identical to his foreign duty description.

The petitioner stated that the beneficiary's knowledge of the company's software is extremely valuable to its market competitiveness, and that both his current and proposed positions require specialized knowledge of the company's systems and broad knowledge of its operations and strategies. The petitioner explained the specialized nature of the beneficiary's knowledge as follows:

Throughout [the beneficiary's] experience working for our global company in different projects, he has gained knowledge of the processes, methodologies and protocols, used by [the company] to provide software solutions to its clients. Also, [the beneficiary] has participated on the design, development and maintenance of scripts and modules which combine the know-how of the inner workings of the complex market exchanges and the way they share key financial information to different companies. Additionally, [the

beneficiary] has participated in the design and maintenance of our user interface automation framework with its scripts which are used to test different modules of any web based system.

Also, [the beneficiary] has experience with several specialized, company-specific and, in some cases, confidential technology with our clients. There are exchange-specific rules and regulations which are mandated by internal policy and government agencies, including, but not limited to, the [REDACTED] [REDACTED] [REDACTED] and the [REDACTED]. These rules and regulations require software procedures related to reporting of trades, market data and clearing transactions to be written to exact specifications. It is this knowledge and expertise that uniquely qualifies [the beneficiary] for this position.

Additionally the petitioner explained that the beneficiary has a background in information technology and that he holds a Master's degree in strategic and technological management from the [REDACTED]

The petitioner's initial evidence included a copy of the beneficiary's resume indicating that he has served as a Java Performance Lead Developer since March 2012. The resume describes his duties in this role as follows:

Core Java performance tuning and maintenance for [REDACTED]  
Rewrote high performance application for optimized throughput in multithreaded highly concurrent environments achieving order of magnitude improvements. Developing recruiting exams and participate in screening and recruiting processes. Leading a 4 party Senior developers [*sic*] team in Buenos Aires.

The beneficiary's resume also states that he served as an "engaging manager" for another client, [REDACTED], from October 2012 to December 2012, a role in which he provided liaison services between the local development team and the customer, facilitated interactions, and coordinated biweekly meetings and status reports. Finally, the beneficiary's resume explains his most recent position as career development & benefits committee president, a role which is apparently offered as ancillary to his ongoing capacity as a Java performance lead developer.

Prior to joining the foreign entity in 2012, the beneficiary was employed as a systems administrator and Linux expert, as a senior J2EE developer, and as a lead consultant for application development for six different employers over a period of 14 years. The resume reflects no apparent prior experience in the financial software development field.

The director issued a request for evidence (RFE) instructing the petitioner to provide evidence that the beneficiary has been and will be employed in a capacity requiring specialized knowledge, emphasizing that the petitioner must demonstrate that the beneficiary's knowledge is distinguished, noteworthy, or uncommon. Specifically, the director asked that the beneficiary submit: (1) a more detailed description of the beneficiary's

duties abroad including the percentages of time the beneficiary spends on his duties; (2) an indication of whether others have acquired the special or advanced level of knowledge held by the beneficiary and how the beneficiary's knowledge was different from similarly employed workers in the company and in the industry at large; (3) a foreign organizational chart listing the members of the beneficiary's immediate department, their job titles, and a summary of their duties; (4) a letter from the beneficiary's supervisor abroad describing the beneficiary's training and experience; (5) an indication of the number of employees in the company with the same knowledge as the beneficiary and how the beneficiary is set apart from these employees or similar employees working in the industry, including job descriptions for those working in similar positions as the beneficiary; (6) documentation showing any training received by the beneficiary and an explanation of how this establishes his knowledge as special or advanced; (7) a detailed description of the beneficiary's proposed duties in the United States including the minimum amount of training and experience required to perform the duties of the position; (8) a detailed description of any training that the beneficiary will provide to U.S. workers, including the time it will take to train these employees; and (9) an organizational chart for the U.S. entity naming all members of the beneficiary's department including their job duties and immigration status.

In response, the petitioner submitted a letter from its director of professional services explaining the beneficiary's proposed duties in the United States as follows:

**(40%) Develop and design JAVA APIs for Financial Exchanges (U.S. clients)**

- [The beneficiary] is currently already developing Java-based application programming interfaces (APIs) for our U.S. clients, including the [REDACTED]. In his proposed role in the United States he will continue to develop standards for the APIs to ensure it meets the requirements for client's software.
- [The beneficiary] will maintain updated knowledge of technologies including open domain standards and API specifications in order to train [petitioner] employees.
- [The beneficiary] will resolve specific work management issues, including financial management, human resources management, contract management, facilities management to ensure that the software development projects are successfully completed per client specifications. This requires consistent client engagement.
- [The beneficiary] will be required to install and configure the software precisely according to client specifications and the regulatory requirements set forth by the [REDACTED].

**(40%) Project management, including project scope, budget and schedules**

- [The beneficiary's] project management experience is a critical tool for [the petitioner]. [The beneficiary] will analyze customer and internal project requirements in order to determine the correct method for implementation.

- To ensure our projects fall within scope and duration of our clients SLAs in order to avoid penalties, [the beneficiary] will manage those processes and will be accountable for the budget and the timeline completion of each project.

**(20%) Subject Matter Expert Liaison**

- [The beneficiary] must communicate with client executive management to ensure critical issues will be addressed and to ensure positive client engagement.
- [The beneficiary] will contribute thoughtful leadership to engagement teams and guide the design and development of innovative, leading edge solutions to our U.S. client's business problems.
- [The beneficiary] will continue to train U.S. employees and assist in hiring U.S. talent by evaluating their fit with the company and skill level.
- [The beneficiary] will be develop [sic] and review technical content for user manuals.

The petitioner explained that it "does not possess the requisite in-house expert with the specialized knowledge that is possessed by [the beneficiary]." The petitioner specified that the beneficiary is required to have advanced knowledge of the company's proprietary software and products, including its [redacted] proprietary software. The petitioner submitted confidential documentation meant to indicate that the beneficiary has expert knowledge in the petitioner's software and that he: "understands how the specifications in the software display financial trades for the end-user during a live trade"; "possesses the knowledge of how each activity interplays with other functions in the software and what events are triggered in the software"; "is able to differentiate trading strategies as they are displayed in the software and as they are translated to the client's interface"; "understands all functionalities that are being possessed while the software is operating, in order to troubleshoot problems during runtime"; "understands [the petitioner's] system architecture and how the software is configured from a foundational aspect in order to expand and scale the software"; "can provide training sessions to other [petitioner] associates"; "is able to dispense technical instructions regarding the software"; and "understands how the software responds and will respond in a client's technical environment."

With respect to the beneficiary's foreign employment, the petitioner submitted the same duty description provided in support of the petition, but added the percentages of time he spends on these duties. The petitioner stated that the beneficiary "was involved in developing, testing and maintaining proprietary software for [the foreign entity], the same software technology that is being utilized by [the petitioner]," and consistent with this experience, he holds advanced knowledge of the company's software. The petitioner asserted that "[the beneficiary] is one of only a handful of employees who are allowed access to this software and its testing protocols." The petitioner further indicated that the beneficiary was granted this access due to "his skills and knowledge of the development principles and theories." The petitioner stated that the software development methods utilized by the foreign entity are unique to the company.

Additionally, the petitioner submitted an organizational chart for the foreign entity indicating that it had approximately seventy employees, including fourteen managerial and supervisory employees. The

beneficiary was shown, in his capacity as lead software engineer and engagement manager, to supervise four employees devoted to "Java Performance." The beneficiary's subordinates were identified by name, but the submitted evidence did not include duty summaries for these subordinates, or for any other employees with knowledge similar to the beneficiary.

Ultimately, the director denied the petition, concluding that the petitioner had not established that the beneficiary was employed in a capacity requiring specialized knowledge or that he would be employed in the United States in a role involving specialized knowledge. In denying the petition, the director noted that the beneficiary's duties were similar to a typical lead software engineer as specified in the Department Labor's Occupational Outlook Handbook (OOH), indicating that the beneficiary performs duties that are comparable to other workers employed in the field. The director also found that the petitioner had failed to demonstrate that the beneficiary's knowledge of the company technology was specialized and emphasized the fact that the beneficiary had been employed with the foreign entity for only fourteen months at the time the petition was filed.

On appeal, counsel contends that the director failed to consider all of the evidence submitted by the petitioner. Counsel states that the director failed to consider the unique and proprietary nature of the company's software in determining that the beneficiary's knowledge is not specialized. Counsel asserts that the beneficiary's duties extend beyond the duties of a basic software engineer, as referenced by the director, as he is required to have extensive knowledge of third party customer goals and internal processes. Counsel further states that the director failed to consider the beneficiary's unique education and training, including his Master's degree in strategic and technological management exchanges and trade in comparison to a basic computer science degree typical for a regular software developer. Counsel contends that the beneficiary's unique combination of advanced software development knowledge, access to proprietary information and knowledge of industry specific regulations and developments qualifies as special and advanced knowledge.

In support of these assertions, counsel provides an expert opinion from Dr. [REDACTED] of the [REDACTED] attesting to the specialized nature of the beneficiary's knowledge. Dr. [REDACTED] states that another competent financial systems specialist would not be able to meet the requirements of the beneficiary's proposed position in the United States. Further, he indicates that the beneficiary's knowledge is "sufficiently rarefied" in a "crowded financial technology field."

#### B. Analysis

Following a review of the totality of the evidence submitted, the petitioner has not established that the beneficiary possesses specialized knowledge or that he 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 not provided information that compares the beneficiary with similarly employed workers within or outside the company as necessary to demonstrate that his knowledge is uncommon or noteworthy. The petitioner's claim that the beneficiary holds complex technological or proprietary knowledge is insufficient to demonstrate that the beneficiary's knowledge is special or advanced. The knowledge must be distinguished, noteworthy, or uncommon when compared to his colleagues within the company or those similarly placed elsewhere in the industry. The director requested that the petitioner submit various forms of evidence relevant to distinguishing the beneficiary's knowledge as special or advanced. Specifically, the director asked the petitioner to submit an explanation of how the beneficiary's knowledge was different from others employed by the foreign entity and others employed in similar positions in the industry. The director further requested a foreign organizational chart listing the members of the beneficiary's immediate department, their job titles, and a summary of their duties. The director also requested documentation showing any training the beneficiary completed, including an explanation of how the training establishes the beneficiary's knowledge as special or advanced when compared to his peers. However, the petitioner's response to the RFE included minimal evidence relevant to comparing the

beneficiary against similarly employed workers, and therefore it failed to establish his knowledge as special or advanced. 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).

As noted above, the beneficiary is a Java performance lead developer. However, the foreign entity's organizational chart reflects that at least one third of the foreign entity's employees are Java developers, the majority of which report to other managers and technical leaders. Further, the petitioner merely states that the beneficiary is the only one in the company with an advanced level of knowledge of the petitioner's financial software and one of a few with intimate knowledge of the CME's specific requirements, but fails to substantiate these assertions with documentation or specific explanations of the projects he worked on or training he completed to gain this knowledge. Again, claiming that the beneficiary has knowledge of complex technical concepts, proprietary information, or customer requirements is not sufficient to establish that he possesses specialized knowledge. The petitioner still has the burden to establish that the knowledge is either special or advanced. In the current matter, the petitioner has not provided sufficient evidence to differentiate the beneficiary's knowledge. 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)).

In fact, the petitioner indicates that the beneficiary has been employed with the company for only fourteen months. The petitioner has not explained or documented how the beneficiary could have gained what it deems to be advanced knowledge of the company's financial software within this time period. Further, it has not explained how the beneficiary acted in a lead developer capacity with no prior exposure to the petitioner's software and technologies and no prior experience in financial software field. On appeal, counsel asserts that it has taken a year for the beneficiary to obtain advanced knowledge of the foreign entity's proprietary information and the requirements of its clients. However, the submitted evidence does not demonstrate that the beneficiary spent any time during his fourteen months of employment in training and reflects that he immediately began acting in a senior technical capacity despite having no prior training in the petitioner's proprietary technologies or industry.

Further, the petitioner claims that the beneficiary is a valuable resource who will provided training to U.S. based employees. However, the petitioner has not specifically explained the nature of this training, to whom this training will be provided, or for how long. The petitioner has also not articulated how long it would take another similarly placed professional to gain the beneficiary's knowledge or how the beneficiary himself gained this knowledge. Rather, it appears that the beneficiary's prior professional experience in the information technology and software development field qualified him to fulfill a lead technical role in the petitioner's organization and any proprietary knowledge he holds was transferred without any significant period of formal or on-the-job training, as the petitioner did not respond to the director's request for an explanation of or documentation of the beneficiary's training.

Much of the petitioner's supporting evidence serves to demonstrate the technical complexity of the field, within which, this office reasonably presumes many financial exchanges and institutions have software developers providing professional services involving proprietary software or data, specific customer

requirements, and other regulatory requirements. Indeed, the petitioner's entire business model is providing software solutions to financial exchanges and institutions, and as noted above, a significant portion of the foreign entity's workforce consists of Java developers whose training, duties and experience have not been distinguished from that possessed by the beneficiary. Again, it is unclear how the beneficiary has gained an advanced knowledge of the company's software during his tenure with the company, and merely claiming that he was given access to proprietary information not shared with others is insufficient to establish that this knowledge is special or advanced. Although the petitioner also contends that the beneficiary assisted in developing the company's proprietary solutions for clients, it has provided little documentary support to substantiate this claim and failed to explain the specific nature of this development. The beneficiary states in his resume that his core duties have included "Java performance tuning and maintenance for CME," and he makes no reference to development of proprietary technology. 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. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

On appeal, the petitioner submits an expert opinion from an associate professor at the [REDACTED] attesting to the specialized nature of the beneficiary's knowledge. USCIS may, in its discretion, use advisory opinions statements submitted as expert testimony. See *Matter of Caron Int'l.*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*; see also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated or is in any way questionable. *Matter of Caron Int'l.*, 19 I&N Dec. at 795. Furthermore, merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. at 1108.

The expert opinion provides a thorough explanation of the beneficiary's financial technology field indicating that the field is "crowded" and that the beneficiary operates within its "predominant business model." Therefore, it is reasonable to conclude, without evidence establishing otherwise, that there are many other information technology professionals providing similar services throughout this industry. Dr. [REDACTED] states that another competent financial system specialist would not be able to perform the requirements of the proposed position and explains the beneficiary's knowledge as "sufficiently rarefied," but fails to specifically articulate why this is the case or compare the beneficiary against other such financial systems specialists. Therefore, despite adding some probative value, the expert opinion of Dr. [REDACTED] is not sufficient to overcome the evidentiary insufficiencies previously articulated in this decision.

In conclusion, the petitioner has failed to provide a sufficient explanation of the beneficiary's specialized knowledge. Although the petitioner repeatedly states that the beneficiary's knowledge of the petitioner's proprietary concepts is special and advanced, the record fails to demonstrate that this knowledge is special compared to other similarly-employed workers in the industry or advanced as compared to similarly-employed workers in the company. 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.

Based on the foregoing, the petitioner has not demonstrated that the beneficiary possesses specialized knowledge or that he has been or would be employed in a specialized knowledge capacity. For this reason, 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.