



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF I-, INC.

DATE: AUG. 15, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a software development company, seeks to temporarily employ the Beneficiary as a data scientist under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with “specialized knowledge” to work temporarily in the United States.

The Director of the California Service Center denied the petition. The Director concluded that the Petitioner did not establish that: (1) the Beneficiary possesses specialized knowledge; (2) the Beneficiary’s employment abroad involved specialized knowledge; and (3) the Beneficiary’s employment in the United States will involve specialized knowledge.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Beneficiary possesses special and advanced knowledge, and that he has been and will be employed in a position involving specialized knowledge.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the Beneficiary’s application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the Beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. *Id.*

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.*

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.

II. SPECIALIZED KNOWLEDGE

The Director denied the petition based on a finding that the Petitioner did not establish that: (1) the Beneficiary possesses specialized knowledge; (2) the Beneficiary's employment abroad involved specialized knowledge; and (3) the Beneficiary's employment in the United States will involve specialized knowledge.

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.

A. Evidence of Record

The Petitioner filed the Form I-129 on September 18, 2015, indicating that it currently has 167 employees in the United States and a gross annual income of \$36.3M. The Petitioner stated that the Beneficiary will be working as a data scientist.

In support of the petition, the Petitioner submitted a letter stating that the Beneficiary has been employed at the foreign entity since May 2012 as a data scientist. The Petitioner stated that the Beneficiary's position of data scientist is highly specialized and he is responsible for creating, configuring, and testing predictive data models, performing quantitative analyses to create valuable insights from data, and evaluating the performance of existing models. The Petitioner provided a position description and job duties for the Beneficiary's position abroad, stating, in part, that the data scientist is responsible for developing predictive analytics with special focus on propensity based model building for global customers, designing statistical experiments, testing hypotheses, and building models, and collaborating with the Petitioner's subject matter experts to select the relevant sources of information.

In reference to the Beneficiary's experience and training, the Petitioner stated that he earned a certificate diploma in business analytics, a master of business administration in finance, and a bachelor of computer application, all in India. The Petitioner also stated that the Beneficiary had over eight years of experience as a data analyst and team leader prior to commencing his career with the foreign entity. The Petitioner asserted that, through his experience at the foreign entity, the Beneficiary acquired the specialized and proprietary knowledge to effectively carry out the responsibilities of the proposed position.

In reference to the Beneficiary's proposed position in the United States, the Petitioner stated that he is extremely qualified for the position and he will continue to work as a data scientist for the Petitioner's proprietary products. The Petitioner stated that the position of data scientist requires an individual with specialized knowledge of the Petitioner's proprietary products, services, and systems. The Petitioner further stated that the Beneficiary has been chosen for the proposed position because of his extensive experience and knowledge of the Petitioner's products and procedures as well as his expertise in the Petitioner's data science, as he will be covering more product lines that those for which he is currently responsible for abroad. The Petitioner provided the same description for the proposed position as it did for the Beneficiary's position abroad, and added that the data scientist will perform access management and control, collaborate with the data steward to ensure that the information used follows the compliance, access management, control policies, and qualification and assurance requirements, and provide business metrics for the overall project to show improvements.

The Petitioner submitted a letter from the foreign entity stating that it has employed the Beneficiary as a data scientist under the title of senior business analyst, from April 30, 2012 to March 2015, and manager consulting from March 2015 to the present. The letter further lists the Beneficiary's duties as a data scientist as follows:

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1. Building predictive data models requiring knowledge of statistics, machine learning, text-mining and pattern recognition.
2. Build and experiment with modeling and scoring algorithms using software like SAS, JMP, R and SQL.
3. Build needed data transformations on structured and un-structured data.
4. Devise and implement methods for monitoring, validation, effectiveness and performance of a model.
5. Contribute to development and adoption of shared predictive analytics infrastructure.
6. Implementation of analytics solution after series of meetings with business heads & marketing analytics.

The Petitioner submitted payroll records showing salary paid to the Beneficiary by the foreign entity from April 1, 2013 to March 31, 2015. The Petitioner also submitted the Beneficiary's earning statements from the foreign entity from April 2015 to August 2015.

The Petitioner submitted copies of the following certificates issued to the Beneficiary:

- Certificate of Completion for SAS training in Applied Analytics Using SAS Enterprise Miner, issued on June 15, 2014 by the [REDACTED] (India) [REDACTED]
- Certificate of completion for a Certificate Programme in Business Analytics for Executives, during December 27, 2013 to October 19, 2014 by the [REDACTED] & the [REDACTED]
- A Graduate Certificate in Business Analytics, issued on November 22, 2014 by [REDACTED]
- A Provincial Certificate for a Degree of Master of Business Administration, issued in November 2013 by [REDACTED]
- A Degree of Bachelor of Computer Applications, issued on September 15, 2006 by [REDACTED]

The Director issued a request for evidence (RFE) advising the Petitioner that the evidence presented was insufficient to demonstrate that the Beneficiary possesses special or advanced knowledge. The Director noted that the Petitioner did not provide corroborating evidence to support the assertion that the Beneficiary has special or advanced knowledge and did not compare and contrast the Beneficiary's knowledge, education, training, and employment with others employed in the industry performing the same or similar type of work. The Director instructed the Petitioner to submit evidence to satisfy these requirements.

In response to the RFE, the Petitioner submitted a letter stating that the Beneficiary has both special knowledge and advanced knowledge. The Petitioner stated that the Beneficiary has special knowledge of the Petitioner's products and services as he is the Petitioner's lead data scientist and has been leading a team of data scientists to support development and delivery of analytics solutions

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to customers since May 2012. The Petitioner listed five frameworks and algorithms it claimed were developed by the Beneficiary using his advanced knowledge of statistical techniques, R, and SAS tools and the Petitioner's products, namely [REDACTED] and [REDACTED]. The Petitioner stated that in order to bring forth the knowledge of data analytics, the Beneficiary is required to actively participate in next generation product development at its development center in the United States. The Petitioner then made a blanket statement that the Beneficiary also has advanced knowledge.

In reference to the Beneficiary's actual specialized knowledge, the Petitioner stated that the Beneficiary's specialized knowledge was gained through prior experience with the Petitioner and working with its products. The Petitioner stated that the Beneficiary possesses knowledge of products and processes that cannot be easily transferred or taught to another individual without significant economic cost or inconvenience. The Petitioner further stated that his knowledge as a data scientist is both sophisticated and complex and of a highly technical nature. The Petitioner stated that the Beneficiary possesses knowledge that is particularly beneficial to the Petitioner's competitiveness in the marketplace.

The Petitioner submitted a letter from the foreign entity describing the Beneficiary's duties abroad and stating that he devotes 60% of his time to designing and developing predictive models, 20% of his time to supporting internal product development roadmap, 10% of his time to supporting business development, and the remaining 10% of his time to managing an analytics team. The Petitioner provided 3-4 sub-tasks for each of the Beneficiary's major job responsibilities, such as build predictive data models requiring knowledge of statistics, machine learning, text-mining, and pattern recognition, formulate data modelling architectures and methodologies for internal software products, create project plan for analytics projects in response to business needs, and manage and/or provide guidance to junior members of the team on statistical topics. The Petitioner also listed some of the major projects and related activities the Beneficiary worked on abroad. The Petitioner then stated that the Beneficiary brings forth special knowledge of the following nature:

- i) Academic knowledge of quantitative field with working knowledge of computer science.
- ii) Knowledge of building predictive data model to avoid loss, capture fraud and increase revenue.
- iii) Knowledge of data modelling techniques such as Regression, Decision Tree, Clustering, Random Forest, and Gradient Boost.
- iv) Knowledge of factors associated with churn and fraud in telecom, banking and insurance domain.
- v) Statistical programming experience in SAS and R.

The Petitioner submitted the Beneficiary's training certificates, some of the same previously submitted, and added the following:

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- A breakdown of the courses covered in the [REDACTED] [REDACTED] in Business Analytics for Executives, indicating that it covered “introduction to business analytics, data mining and predictive analysis, simulation and optimization for business analytics, and developing value through business analytics applications.”
- Certificate recognizing the Beneficiary as a SAS Certified Predictive Modeler Using SAS Enterprise Miner 7, issued on September 15, 2014 by the [REDACTED]
- Certificate indicating that the Beneficiary participated in the [REDACTED] December 28-29, 2014 in [REDACTED] India.

The Petitioner submitted letters from the Beneficiary’s former employers abroad: [REDACTED]

[REDACTED] and [REDACTED] (India) [REDACTED]

The Petitioner submitted an organizational chart for the foreign entity showing the Beneficiary as “Manager – Consulting,” parallel to one other person in the same position and jointly supervising two senior business analysts and one business analyst. The Beneficiary belongs to an “India Business Analysis” group, with five individuals, which report directly to the vice president of operations.

The Petitioner submitted a letter describing its business and the Beneficiary’s qualifications, stating that the Beneficiary is the lead data scientist, leading a team of six data scientists to support the development and delivery of analytics solutions to its customers since May 2012. The Petitioner restated the five frameworks and algorithms it claims were developed by the Beneficiary. The Petitioner then stated that its analytics solutions offer complete customization of one of those frameworks to address a customer’s business objectives, and listed the following minimum requirements for the development and customization of frameworks:

- Graduate level degree in computer science / statistics / business administration[;]
- Training and certifications in R and SAS[;]
- 8-12 years of experience in statistical model development[;]
- 5-8 years of experience in data cleaning and data blending[; and]
- 2-3 years of experience [with the Petitioner’s] products namely [REDACTED] and [REDACTED] [.]

It will typically take between 2 to 3 years for an experience person to achieve the level of proficiency required for development, customization and operationalization of the model to be delivered as our analytics solution offering to our customers.

[The Petitioner] employs six other junior level Data Scientists. It would take these resources between 2-3 years to achieve [the Beneficiary’s] proficiency level. To the best of my knowledge, every company that provides data analytics solution, has positions similar to our U.S. positions and their job duties compare very similarly to [the Beneficiary’s] job description. The only key differences are the types of models,

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the tools and the operationalization methodology. At [the Petitioner], we primarily rely on genetic algorithms for model development, we prefer SAS as the tool of choice for model development, and we use our existing products such as [REDACTED] and [REDACTED] to operationalize the models. In summary, similar positions in other organizations have structural similarities but require organization specific process, tool and methodology knowledge and experience.

The Petitioner submitted numerous web print-outs of its services and marketing of its products, namely [REDACTED] and [REDACTED]

The Director denied the petition on December 30, 2015, concluding that the Petitioner did not establish that (1) the Beneficiary possesses specialized knowledge; (2) the Beneficiary's employment abroad involved specialized knowledge; and (3) the Beneficiary's employment in the United States will involve specialized knowledge. In denying the petition, the Director found that the descriptions of duties provided are similar and typical of a data scientist or related occupation working in the analytics field. The Director found that, based on the evidence submitted, USCIS cannot conclude that the Beneficiary has knowledge or experience in the field of analytics that is significantly different from that possessed by similarly employed workers in the same industry. The Director noted that it appears that the Beneficiary will perform the same or similar duties in the proposed position as other workers in similar positions in the field. The Director found that, while the Petitioner explained that the Beneficiary will use its tools, processes, and methodologies to perform the tasks of the proposed position, it did not adequately explain and evidence how the use of its tools, processes, and methodologies in the execution of his everyday job duties will involve specialized knowledge.

On appeal, the Petitioner submits a brief that is almost identical to its response to the RFE. The Petitioner describes the Beneficiary's position abroad and proposed position in the U.S., along with his specialized knowledge, exactly as described in its RFE response letter, and adds that, rather than a computer analyst position, the Beneficiary's position duties are more aligned with a computer and information research scientist or a statistician. The Petitioner also adds that the Beneficiary's advanced knowledge makes his role critical for the company and required at its headquarters office in the United States at this time.

The Petitioner submits a copy of its response to the RFE and an O*Net Online Summary Report for Computer and Information Research Scientist and Statisticians.

B. Analysis

Upon review of the petition and the evidence of record, including materials submitted in support of the appeal, we conclude that the Petitioner has not established that the Beneficiary possesses specialized knowledge or that he has been employed abroad, and will be employed in the United States, in a position involving specialized knowledge as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

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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 will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person “has a special knowledge of the company product and its application in international markets.” Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person “has an advanced level of knowledge of processes and procedures of the company.” See also 8 C.F.R. § 214.2(l)(1)(ii)(D). The Petitioner may establish eligibility by submitting evidence that the Beneficiary and the proffered position satisfy either prong of the definition.

Once a 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. U.S. Citizenship and Immigration Services (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 its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary’s knowledge. The petitioner should also 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. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary’s knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. 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’s claims appear to be based on both prongs of the statutory definition. Specifically, the Petitioner states the Beneficiary has special knowledge of its services and proprietary products and their application in international markets, as well as advanced knowledge of the Petitioner’s organization specific processes. We will analyze each claim in turn.

“Special knowledge” concerns knowledge of the petitioning organization’s products or services and

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its application in international markets. As such the Petitioner may meet its burden through evidence that the Beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

Here the Petitioner's claim of "special knowledge" is based on the Beneficiary's knowledge of the Petitioner's service – that of providing predictive modeling and analytics to customers. The Petitioner states that its service is distinct based on the types of models, tools, and operationalization methodology used. Specifically, the Petitioner states that the Beneficiary's knowledge is special knowledge is based on experience with utilizing statistical tools to create frameworks and algorithms to capture data and develop data models which are then "operationalized" through the Petitioner's proprietary products, [REDACTED] and [REDACTED]

The Petitioner states that the Beneficiary's knowledge is of a highly technical nature that cannot be easily transferred or taught, but does not explain the highly technical skills performed by the Beneficiary or how those skills rise to the level of special knowledge. The Petitioner states that the Beneficiary has gained knowledge of "quantitative field with working knowledge of computer science," "[k]nowledge of building predictive data model to avoid loss, capture fraud and increase revenue," "[k]nowledge of data modelling techniques such as Regression, Decision Tree, Clustering, Random Forest, and Gradient Boost," "[k]nowledge of factors associated with churn and fraud in telecom, banking and insurance domain," and "[s]tatistical programming experience in SAS and R." The Petitioner states that the Beneficiary also has knowledge of its internal products – [REDACTED] and [REDACTED]. The Petitioner claims that it was with this knowledge that the Beneficiary developed the five frameworks and algorithms that are completely customized to address a customer's business objectives. However, general statistical techniques and the R and SAS tools used by the Beneficiary to perform his duties are commonly used throughout the industry as they are third party products and the industry standard for predictive modelling. Knowledge of the quantitative field and a working knowledge of computer science is likewise knowledge that is commonly held in the predictive modelling field.

Moreover, the Petitioner has not explained how the data modelling techniques listed are distinct from other types of data modelling techniques, nor has the Petitioner indicated that knowledge of such techniques differentiates the Beneficiary from similarly employed workers in the industry. Likewise, the Petitioner has not described the uncommon nature or the depth of the Beneficiary's knowledge of "churn and fraud in telecom, banking and insurance domain" such that this knowledge could be considered special when compared to knowledge held by others. Here, the Petitioner has not shown that the Beneficiary possesses knowledge that rises to a level that is beyond the expectation of any professional in the Beneficiary's position in the industry. The Petitioner has not provided any comparison between the knowledge held by the Beneficiary and the knowledge required of others in similar positions. The Petitioner has not provided sufficient information about what the Beneficiary's special knowledge actually is and how it relates to his position compared to others within the industry. Absent additional information and corroborating evidence to support the Petitioner's claim that the Beneficiary possesses special knowledge, we cannot determine whether

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the Beneficiary has special knowledge of the company's service or product and its application in international markets.

While the current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that the Beneficiary's knowledge be proprietary, the Petitioner might satisfy the current standard by establishing that the knowledge required to work with the Petitioner's proprietary products is special. Here, the Petitioner claims that the Beneficiary has special knowledge of its products, [REDACTED] and [REDACTED] but has not articulated how the Beneficiary's knowledge of these products rises to a level of special knowledge that is not common to similarly employed workers either within its organization or in the industry. The Petitioner did not provide any technical information about its products, explain how the Beneficiary uses these products in his position, or the type or depth of knowledge the Beneficiary has of the products. The Petitioner does not compare the Beneficiary's knowledge of its products to others within its organization, or within the predictive analytics modelling industry. The Petitioner simply states that the products are customized, who customizes them, and what skills are required to perform this work.

The Petitioner also does not provide any information regarding the training of the product for employees or how an employee acquires a level of proficiency with the product that can be considered special. The only information provided about these products are print-outs of the Petitioner's marketing materials found on its web site, which is geared toward attracting customers. The Petitioner has not provided sufficient information to demonstrate what the Beneficiary's knowledge is concerning these products or that his knowledge of these products rises to a level that is special. Further, although the Petitioner states that these are internal products and its marketing materials indicate that they are registered products, the Petitioner did not provide any information showing its ownership of these products or exclusive use of the products within its organization. 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) (quoting *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Here, the Petitioner did not provide sufficient details regarding its [REDACTED] and [REDACTED] products to demonstrate that they are substantially different or more complex than other similar products in the predictive modelling industry, such that knowledge of the product could be considered special. Likewise, the Petitioner did not provide sufficient detail about the frameworks and algorithms used by the Beneficiary to explain how they differ significantly from, or are more complex than, those used in other data scientist positions. 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.

The Petitioner also claims generally that the Beneficiary has advanced knowledge. Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the Petitioner may meet its burden through evidence that the Beneficiary has knowledge of or an expertise in the organization's processes and procedures that is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations. Such

advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others. Here, while not clearly defined, it appears that the Petitioner's claims are based on the Beneficiary's understanding of its chosen methodology for providing its services to customers, specifically, knowledge of the Petitioner's preferred types of algorithms and statistical tools.

Beyond stating that its organization has preferred methodologies, the Petitioner did not outline any internal processes or procedures used by the Beneficiary. Nor did the Petitioner explain how the Beneficiary's knowledge of the Petitioner's preferred methodologies is advanced in comparison to the Petitioner's other employees. It is reasonable to conclude that any employee involved with predictive modeling for the Petitioner would be well aware of its preference for the types of algorithms and tools used to provide its service, as well as a preference for using the Petitioner's proprietary products to "operationalize" customer data. Without detailed information on the Petitioner's specific processes and procedures, as well as a comparison between the Beneficiary's knowledge of such and the knowledge held by other employees, we cannot find that the Beneficiary possesses advanced knowledge. As noted, 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. 165.

A review of the Beneficiary's background further undermines the claim that he has special or advanced knowledge acquired through experience with the Petitioner. In fact, the record indicates that the Beneficiary was initially hired by the foreign entity in April 2012 as a data scientist, senior business analyst, despite having no prior experience with the Petitioner's group or its products.¹ The Petitioner outlined the Beneficiary's educational background and indicated that the Beneficiary has a master's degree in business administration, obtained in February 2014² and a graduate certificate in business analytics, obtained in November 2014, both approximately two years after his initial hiring as a data scientist, senior business analyst at the foreign entity. The Petitioner also submitted evidence of the Beneficiary's training, indicating that he completed training on SAS Enterprise Miner in June 2014, passed an exam on SAS Enterprise Miner 7 in September 2014, and completed training on business analytics for executives in October 2014, all more than two years after his initial hiring as a data scientist, senior business analyst, at the foreign entity. This evidence of the Beneficiary's educational background and training on third party tools that are the industry standard are not indicative of an employee with special or advanced knowledge that is beyond the expectation for a data scientist in the predictive analytics modelling field. The Petitioner has not shown that the Beneficiary has received any training that is uncommon or distinct, such that his knowledge can be

¹ We note that the Petitioner indicated that the Beneficiary's position was changed from data scientist, senior business analyst, to data scientist, manager consulting, on March 1, 2015. However, the Petitioner lists one set of duties for the Beneficiary's data scientist position and does not indicate if and how the "senior business analyst" and "manager consulting" aspects of the Beneficiary's position differ. The Petitioner does not address this distinction anywhere in the record and does not indicate that the Beneficiary's position or duties have changed throughout his career at the foreign entity. Therefore, we will assume that the Beneficiary's duties as a data scientist remained the same since his initial hiring at the foreign entity in April 2012.

² We note that the certificate states that the Beneficiary passed the examinations in November 2013.

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considered special or advanced. The Petitioner also has not shown that the Beneficiary received any specific training on its proprietary products to demonstrate that the products themselves are more complex than others in the industry and that the Beneficiary has acquired specific knowledge about its products or processes that rises to a level that is special or advanced when compared to other employees within the organization or within the industry.

The Petitioner's assertions that one of the minimum requirements for the development and customization of frameworks is 2-3 years of experience with its products, [REDACTED] and [REDACTED] are not supported by the evidence. The evidence indicates that the Beneficiary was hired as a data scientist in April 2012 with no prior experience with the Petitioner's organization or its products. The Petitioner stated that Beneficiary has been the lead data scientist leading a team of six data scientists to support the development and delivery of analytics solutions to its customers since May 2012, only a month after being hired. However, the Petitioner now states that it would take 2-3 years for its existing "junior level data scientists" to achieve the Beneficiary's proficiency level. This raises additional doubts as to the Beneficiary's claimed special and advanced knowledge. The Petitioner's assertions that the data scientist position requires 2-3 years of experience with its products are not supported by the evidence. Rather, the evidence indicates that the Beneficiary was immediately hired as a data scientist, performing the same duties that the Petitioner now claims require specialized knowledge, although he had no prior experience with the Petitioner's organization or its products and processes. Therefore, it appears that the Petitioner's claim that its current junior data scientist will require 2-3 years of additional experience to achieve the Beneficiary's proficiency level is inconsistent. Furthermore, the foreign entity's organizational chart indicates that there is another individual in a position parallel to the Beneficiary, but the Petitioner also did not provide any information about the position, the work performed, or how it relates to the Beneficiary's claimed position at the foreign entity.

Given that the Beneficiary was immediately hired as a data scientist and immediately led a team of six data scientists, without any prior experience with the Petitioner's organization or products, the evidence does not support the Petitioner's claims that the Beneficiary acquired specialized knowledge through his experience with the Petitioner's organization and working with its products. Rather, the evidence suggests that the positions do not require specialized knowledge of the Petitioner's products or processes and the knowledge can be transferred to a similarly experienced data scientist within a reasonable amount of time. The Petitioner has not resolved these inconsistencies with independent, objective evidence pointing to where the truth lies. *See, Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

As explained above, the evidence does not distinguish the Beneficiary's knowledge from that of other similarly-employed workers within the general industry, nor does it establish that the Beneficiary possesses more advanced knowledge than the Petitioner's other employees. Although the Petitioner repeatedly claims that the Beneficiary's knowledge is special and advanced, the Petitioner did not provide independent and objective evidence to corroborate such claims.

Additionally, the Petitioner has not demonstrated that the Beneficiary has been employed abroad and will be employed in the United States in a position involving specialized knowledge. Although the Petitioner asserts that the Beneficiary's position requires specialized knowledge, the Petitioner has not articulated any basis to the claim that the Beneficiary is and will be employed in a position involving specialized knowledge. Other than submitting a general description of the Beneficiary's job duties, the Petitioner has not identified any aspect of the Beneficiary's position which involves special knowledge of its products, services, research, equipment, techniques, management, or other interests. The Petitioner has not submitted any evidence of the knowledge and expertise required for the Beneficiary's position that would differentiate that employment from the position of data scientist at other employers within the industry.

The Petitioner states that the Beneficiary's current position abroad and proposed position in the United States are the same and provided the same position description and job duties for both. The Petitioner states that the Beneficiary creates, configures, and tests predictive data models, performs quantitative analyses to create valuable insights from data, and evaluates the performance of existing models. The Petitioner states that the Beneficiary devotes 60% of his time to designing and developing predictive models and 20% of his time to supporting internal product development. The Petitioner provided several sub-tasks performed by the Beneficiary but did not indicate how those tasks involve special or advanced knowledge. The Petitioner lists several third party tools used by the Beneficiary in performing his duties designing and developing predictive models, but these tools are the industry standard and do not demonstrate that the position involves any special or advanced knowledge beyond what is expected of a data scientist within the predictive modelling industry. The Petitioner vaguely references its internal products in stating that the Beneficiary participates in supporting them, but does not provide any detail as to what products it is referring to, what the Beneficiary does with the products, how he supports them, or how those specific tasks involve any special or advanced knowledge beyond what is commonly known by other data scientists within its organization. Here, the Petitioner simply did not provide sufficient information to demonstrate that the Beneficiary's position abroad and proposed position in the United States actually involve special or advanced 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) (quoting *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

We do not doubt that the Beneficiary is a valuable employee who is well-qualified for the proposed position in the United States. However, based on the evidence presented the Petitioner has not established that the Beneficiary has specialized knowledge and that he has been or would be employed in a capacity involving specialized knowledge.

III. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N 127, 128 (BIA 2013). Here, that burden has not been met.

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ORDER: The appeal is dismissed.

Cite as *Matter of I-, Inc.*, ID# 17699 (AAO Aug. 15, 2016)