



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

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

MATTER OF E-US LLC

DATE: JAN. 29, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a business software company, seeks to temporarily employ the Beneficiary as a Software Engineer under the L-1B nonimmigrant classification. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The Director, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

I. ISSUES

The issues before us are whether the Petitioner established that the Beneficiary: (1) possesses specialized knowledge; (2) was employed abroad in a position involving specialized knowledge; and (3) will be employed in the United States in a specialized knowledge capacity.

II. 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.

III. SPECIALIZED KNOWLEDGE

The issues to be addressed are whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether she has been employed abroad and will be employed in the United States in a specialized knowledge capacity.

A. Facts

The Petitioner filed the Form I-129 on February 2, 2015, and indicated that it currently has 1,639 employees worldwide, with 40 employees in the United States, and a gross annual income of €213 million.

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The Petitioner stated the Beneficiary will be working as a Software Engineer. The Petitioner provided a description of the Beneficiary's duties with the foreign entity and proposed duties in the United States. In its letter of support, dated January 16, 2015, the Petitioner explained that there is a lack of current knowledge of the design architecture of its Wholesale Distribution solution in its U.S. workforce because product development has taken place overseas and the company's knowledge base is far removed from the physical location required to be an active team member. The Petitioner described the specialized knowledge required to perform the duties associated with the Beneficiary's proposed duties in the United States as follows:

[The Petitioner] has an urgent need for a Software Engineer with existing knowledge both technically and functionally of our [REDACTED] Online products. . . .

The key responsibilities for this role include using an in depth knowledge of our company specific [REDACTED] Online architecture to rapidly develop business applications for our Wholesale Distribution and Manufacturing business solutions. Specialized knowledge of our company's specific and proprietary repository, as well as knowledge of our current true multi-tenant application will be used to expedite the building and launching of our newest manufacturing solution here in the U.S. Technical knowledge of our hosting environments as well as in depth, functional knowledge of our Wholesale Distribution application, since that is the foundation of our Manufacturing solution we are building, is also needed to properly perform the duties of the position. [The Beneficiary's] specialized knowledge of [REDACTED] Wholesale Distribution application is extremely rare and can be gained only through at least a year of experience working for the foreign entity developing the product.

In the same letter of support, the Petitioner discussed the Beneficiary's qualifications and experience leading to her possession of the required specialized knowledge as follows:

[The Beneficiary] is uniquely qualified for this temporary assignment based upon the highly specialized knowledge she has gained regarding [REDACTED] online software architecture, [REDACTED] Online Wholesale Distribution product in particular, as well as [REDACTED] EOL SCRUM practice and the coding language used within [REDACTED] Repository.

[The Beneficiary] has been employed by [the foreign entity] since July 1, 2013 as a Software Engineer. [The foreign entity] is the international development center of [REDACTED]

As a member of the [REDACTED] Online Wholesales team, [the Beneficiary] designs and develops [REDACTED] Online Wholesale Distribution software product using VB.NET, C#, JavaScript, on the .NET/COM platform and [REDACTED] Agile software development methodology (SCRUM).

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The Petitioner went on to list specific duties performed by the Beneficiary in her position abroad, such as “designs code and tests high quality .NET code . . . in accordance with design artifacts and [REDACTED] EOL SCRUM methodology,” “programs both new solutions and new functionality in existing solutions . . . using detailed functional designs of [REDACTED] Online Wholesale Distribution,” and “serves as subject matter expert responsible for the coaching and development of colleagues.”

The Petitioner also stated that the Beneficiary “has been extensively trained in [REDACTED] products, particularly in our online products, and has earned certification[s].” The Petitioner explained that it does not maintain formal hard copies of exam results or provide certificates of completion since the certifications and trainings are relevant only to [REDACTED] internally, and provided the following list of five “certifications” and 17 training courses completed by the Beneficiary:

Certification: [REDACTED] Online Manufacturing Duration: 3 days Method of delivery: self-study Completion Date: Dec 6, 2014	Certification: [REDACTED] Online Accountancy Duration: 2 days Method of delivery: self-study Completion Date: Jun 15, 2014
Certification: [REDACTED] Online Wholesale Distribution Duration: 3 days Method of delivery: classroom Completion Date: Sep 13, 2013	Certification: [REDACTED] Online Essentials Duration: 3 day Method of delivery: classroom Completion Date: Jul 15, 2013
Certification: [REDACTED] Online Insight Duration: 2.5 hours Method of delivery: self-study Completion Date: Jul 7, 2013	Integration Testing Duration: 2 hours Method of delivery: classroom Completion Date: Nov 16, 2014
Security Awareness for Development Professionals Duration: 2 hours Method of delivery: self-study Completion Date: Oct 19, 2014	SOLID (object-oriented design) Duration: 3 hours Method of delivery: classroom Completion Date: Oct 16, 2014
Performance Testing Duration: 2 days Method of delivery: self-study Completion Date: Sep 20, 2014	[REDACTED] Online – Technical Refactoring Duration: 1 day Method of delivery: classroom Completion Date: Aug 28, 2014
Test Driven Development Duration: 3 hours Method of delivery: classroom Completion Date: Jul 20, 2014	Unit Testing Duration: 1 day Method of delivery: classroom Completion Date: Jun 10, 2014
Cultural Awareness Duration: 1 day Method of delivery: classroom Completion Date: Apr 17, 2014	Introducing [REDACTED] Duration: 1 day Method of delivery: self-study Completion Date: Sep 20, 2013

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Insight Part 3 – Interactive session Duration: 3 hours Method of delivery: self-study Completion Date: Aug 16, 2013	Basic Financial Accounting (ADC Only) Duration: 2 days Method of delivery: classroom Completion Date: Jul 9, 2013
Insight Part 1 – Welcome Kit Duration: half an hour Method of delivery: self-study Completion Date: Jul 7, 2013	3 rd Party Software Components Duration: 1 hour Method of delivery: classroom Completion Date: Jul 3, 2013
Insight Part 2 – Self-Study program Duration: 3 hours Method of delivery: self-study Completion Date: Jul 2, 2013	Online – Technical Insight Duration: 1 day Method of delivery: classroom Completion Date: Jun 24, 2013
Online – Technical Essentials Duration: 4 days Method of delivery: classroom Completion Date: Jun 25, 2013	Online – Technical Advanced Duration: 2 days Method of delivery: classroom Completion Date: Jun 19, 2013

The Petitioner stated that “the specialized knowledge required relates exclusively to our business, and employment of a person with this specialized knowledge is critical to our proprietary interests. [The Beneficiary’s] knowledge is uncommon, noteworthy and not generally known by practitioners in the field.”

The Petitioner submitted a letter from the foreign entity’s human resources manager, dated November 25, 2014, confirming that the Beneficiary has been employed by the foreign entity as a software engineer since July 1, 2013.

The Petitioner submitted copies of the Beneficiary’s certificate and transcript from [REDACTED] awarding her a “Bachelor of Science with First Class Honours” in Computing (Software Engineering) on June 7, 2013. The transcript states that the awarding institution is [REDACTED] UK and the teaching institution was [REDACTED] Malaysia.

The Director issued a request for evidence (RFE) on February 12, 2015, advising the Petitioner that the documentation submitted was insufficient to determine that the Beneficiary has specialized knowledge because it had not provided corroborating evidence as to the Beneficiary’s special or advanced knowledge, and it did not compare and contrast the Beneficiary’s knowledge, education, training, and employment with others employed in the industry performing the same or similar work. In addition, it found that the training courses completed by the Beneficiary appear to be entry level courses provided to new employees and nearly all of them were completed in a couple of days or less, which suggested that the knowledge imputed to the Beneficiary is easily transferable to other employees. The Director instructed the Petitioner to submit evidence establishing that the Beneficiary possesses specialized knowledge, such as a description of the specialized knowledge,

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number of employees, training received, proprietary knowledge, patents, and any published materials.

In response to the RFE, the Petitioner submitted a letter, dated April 29, 2015, describing the required specialized knowledge for the position and the training required to attain such specialized knowledge as follows:

[S]pecialized Knowledge of our company's specific and proprietary repository, as well as knowledge of our current multi-tenant application will be used to expedite the building and launching of our newest manufacturing solution here in the U.S. Technical knowledge of our hosting environments, as well as in depth, functional knowledge of our Wholesale Distribution application – since that is the foundation of the Manufacturing solution we are building – is also needed to properly perform the duties of the position. [The Beneficiary's] Specialized Knowledge of [REDACTED] Wholesale Distribution application is extremely rare and can be gained only through working for [REDACTED] developing the product. . . .

. . . .

. . . [T]he specific industry solution to which [the Beneficiary] brings her specialized functional knowledge is Wholesale Distribution, which is the foundation for the [REDACTED] for Manufacturing that we are building in [REDACTED] MN USA. Generally speaking, software engineers typically focus on only the technical side of applications, but in this position, the functional knowledge and understanding of the applications is critical.

. . . .

Training and hands-on experience required to achieve proficient knowledge in [REDACTED] Online Wholesale Distribution] and related functional areas is learned via internal training sessions followed by extensive hands-on technical coding experience with the [REDACTED] technical framework.

. . . .

Training required to achieve proficient knowledge in the [proprietary] system layer is learned via classroom overviews, and extensive hands-on experience and mentoring by colleagues.

. . . .

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Training required to achieve proficient knowledge in the [proprietary] data structure is at least 6 months, and is learned via classroom overviews, hands-on experience and mentoring by colleagues.

....

Training required to achieve proficient knowledge in the [Proprietary Business Layer] Repository requires extensive hands-on, practical training or experience using this framework along with understanding and complying with [redacted] coding standards to rapidly generate high quality, bug free code.

....

Training required to achieve proficient knowledge in [redacted] Online Hosting is at least 6 months and is learned via hands-on experience and mentoring by colleagues.

....

Training required to achieve proficient knowledge in the [redacted] Online [development tools] implementation of these industry tools is about 6 months (provided the Software Engineer has previous experience with the tools) and is learned via hands-on experience and mentoring by colleagues.

....

Training required to achieve proficient knowledge in using these custom tools [redacted] Online SCRUM methodology] is about 6 months, and is learned via hands-on experience and mentoring by colleagues.

....

Becoming proficient with the [redacted] Online coding standards takes at least 6 months and is achieved via hands-on experience.

....

Training required to achieve proficient knowledge in quality assurance procedures is done via classroom overviews, followed by extensive hands-on experience and mentoring by colleagues.

....

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Training required for the Software Engineer to efficiently respond based on [REDACTED] SLA standards is conducted via extensive hands-on experience and mentoring by colleagues.

....

Training required to deliver code reviews is 9-12 months of experience using the tools and framework outlined above.

Similar to the above, training required to create good technical documentation that other engineers can learn from requires 9-12 months of experience using the tools and framework outlined above.

....

[A] Software Engineer could not come in off the street, take the course[,] and be proficient in a few days. The Specialized Knowledge is gained primarily with hands on practical experience writing code within the [REDACTED] Online technical framework, using the [REDACTED] Online technical tools. The entry level training courses referenced lay the foundation on the front end. Completion of the certification course certifies the individual has obtained the specific knowledge required to become fully competent in the solution. The competence gained is mostly through hands-on experience outside of the certification program. Once granted certification, it still takes experience working on the product development for an individual to reach the level of Specialized Knowledge required for the offered position.¹

The Petitioner's letter further discussed the Beneficiary specialized knowledge and training, and that of its other employees, as follows:

[S]ince joining [REDACTED] in 2013, [the Beneficiary] gained, uses and has honed her Specialized Knowledge of the Proprietary Business Layer ("Repository"), [REDACTED] Online Development Tools, Proprietary Development Tools, [REDACTED] Online TFS Power Tools, [REDACTED] Online Product Updater, [REDACTED] Online Developer Helper, [REDACTED] Online Test Runner, and the [REDACTED] Online SCRUM Methodology applications tools/procedures described above.

....

The number of individuals who possess this Specialized Knowledge as described within the U.S. (that are not already on the US [REDACTED] Online Team), is

¹ We note the Petitioner's assertion that the Beneficiary became certified in the [REDACTED] Online Wholesale Distribution product in September 2013.

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ZERO. Within the broader [redacted] Online technical community, where we have development centers in [redacted] The Netherlands, and in [redacted] Malaysia, the total number of [redacted] employees who possess this required level of Specialized Knowledge is no more than 15 Software Engineers out of roughly 200. Worldwide, [redacted] employs more than 1,600 individuals, and only those 15 or so individuals possess the required level of Specialized Knowledge for the role at issue.

....

[The Beneficiary's] specialized knowledge of [redacted] Wholesale Distribution application is extremely rare, and can be gained only through at least a year of experience working for [redacted] developing the product. . . .

....

In order to perform the duties above, the Software Engineer for [redacted] Online is required to possess in-depth Specialized Knowledge of the proprietary [redacted] products as well as [redacted] processes and procedures. . . . This experience with the proprietary tools [redacted] uses to build our software cannot be gained outside of the organization. **To train an [redacted] Software Engineer with no experience with our products to assume this position would take 1-2 years**, which would harm our business in the U.S. . . . The Specialized Knowledge and expertise [the Beneficiary] has gained with [the foreign entity] uniquely allows her to join the United States [redacted] Online development team and begin contributing to our team and company success immediately.

(Emphasis added).

The Director denied the petition on May 20, 2015, concluding that the Petitioner did not establish that the Beneficiary possesses specialized knowledge, has been employed abroad in a position involving specialized knowledge for at least one continuous year, and will be employed in the United States in a position involving specialized knowledge. In denying the petition, the Director found that the evidence submitted did not establish that the Beneficiary has knowledge or experience in the field of information technology that is significantly different from that possessed by similarly employed workers in the same industry. The Director further found that the Petitioner did not demonstrate that the general knowledge of and familiarity with its products, methodologies, and solutions equates to specialized knowledge or how the Beneficiary's knowledge rises to the level of special or advanced, as contemplated by the regulations. The Director discussed the Beneficiary's training and concluded that, because some of the training courses completed by the Beneficiary were completed in 2014, knowledge imparted by these trainings could not be included in the calculation of one continuous year of employment in a specialized knowledge capacity in the Beneficiary's foreign position for one continuous year at the time of filing.

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On appeal, the Petitioner states that the Beneficiary uses her specialized knowledge of its applications and other tools to design and develop its [REDACTED] Online products and asserts that the Beneficiary has been involved in the development of the [REDACTED] Online Wholesale Distribution application since September 2013. The Petitioner further asserts that it would typically require about six months to obtain the status of having specialized knowledge at the time of the Beneficiary's initial employment at the foreign entity. However, as the products have been enhanced, it now requires more time to obtain the specialized knowledge status. The Petitioner contends that, had the Director requested the date the Beneficiary became "specialized," it would have indicated that date as being no later than January 1, 2014. The Petitioner asserts that any subsequent training cross-certification for [REDACTED] software products outside of the [REDACTED] Online platform are irrelevant to a determination of whether she has obtained specialized knowledge in the area for which the Petitioner seeks to employ her.

B. Analysis

Upon review, the Petitioner's assertions are not persuasive. The record does not establish that the Beneficiary possesses specialized knowledge or that she was employed abroad, or will be employed in the United States, in a position involving specialized knowledge.

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.

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 its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary's

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

In the present case, the Petitioner’s claims are based on both prongs of the statutory definition, asserting that the Beneficiary has a special knowledge of the company’s products and their application in international markets and an advanced level of knowledge of the company’s processes and procedures.

Because “special knowledge” concerns knowledge of the petitioning organization’s products or services and its application in international markets, 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.

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 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, the Petitioner states that the Beneficiary commenced her employment at the foreign entity on July 1, 2013. The Beneficiary had just been awarded her Bachelor’s degree the previous month. The Petitioner states, on appeal, that the Beneficiary became “specialized” in her field no later than January 1, 2014, and that the Beneficiary therefore possesses the required one year of employment in a position involving specialized knowledge abroad. The Petitioner further states, on appeal, that some of the training courses and certifications completed by the Beneficiary were for cross-training purposes and not relevant to her specialized knowledge. The Beneficiary’s specialized knowledge is based on the Petitioner’s [REDACTED] online software architecture, the [REDACTED] Online Wholesale Distribution product in particular, as well as [REDACTED] EOL SCRUM practice and the coding language used within [REDACTED] Repository.” According to the Petitioner, the Beneficiary completed a three-day certification course on [REDACTED] Online Wholesale Distribution on September 13, 2013. The Petitioner also stated that the Beneficiary’s “specialized knowledge of [REDACTED] Wholesale Distribution application is extremely rare and can be gained only through at least a year of experience working for [the foreign entity] developing the product.”

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The Petitioner then, in response to the RFE, recites each of the “tools and frameworks” that make up the Beneficiary’s specialized knowledge. The Petitioner states that the training required to “achieve proficient knowledge” in its proprietary data structure, [REDACTED] Online Hosting, [REDACTED] Online development tools, [REDACTED] Online SCRUM methodology, and [REDACTED] Online coding standards, “is at least 6 months and is learned via hands-on experience and mentoring by colleagues.” The Petitioner also states that the training required to achieve proficient knowledge in its proprietary system layer and its quality assurance procedures “is learned via classroom overviews, extensive hands-on experience, and mentoring by colleagues,” but does not provide an exact or approximate period of time to achieve such proficiency. The Petitioner states that the training required to achieve proficient knowledge in its proprietary business layer repository is “extensive hands-on practical training or experience using this framework along with understanding and complying with [REDACTED] coding standards,” but also does not provide an exact or approximate period of time to achieve such proficiency. The Petitioner finally states that the training required to achieve proficient knowledge to deliver code reviews and create good technical documentation that other engineers can learn from “is 9-12 months of experience using the tools and framework outlined above.”

In this instance, if the Beneficiary completed the six months of training required to “achieve proficient knowledge” in each of the components listed by the Petitioner that make up her specialized knowledge, concurrently, she would then need “9-12 months of experience using the tools and framework” that she became proficient in at the end of the six months in order to “deliver code reviews” and “create good technical documentation that other engineers can learn from.” We would then conclude that the Beneficiary became proficient in the first set of tools and frameworks in or around January 2014, but would then need 9-12 months of hands-on experience using those tools and framework in order to become proficient in the second set of tools and framework, which would eventually lead to her acquiring the specialized knowledge required by the position in the United States. That means that she would “become specialized” in October 2014, at the earliest. Then, according to the Petitioner’s statement that “specialized knowledge of [REDACTED] Wholesale Distribution application is extremely rare and can be gained only through at least a year of experience working for [REDACTED] developing the product,” the Beneficiary has not possessed specialized knowledge and been employed in a position involving specialized knowledge for one year.

Moreover, absent additional evidence or discussion pertaining to the credentials, training, and job duties of the Beneficiary’s co-workers, both in the United States and abroad, we cannot conclude that the Beneficiary’s knowledge is greatly developed or further along in progress, complexity and understanding than that generally found within the foreign entity or the U.S. company. In its initial letter of support, the Petitioner explained that it employs 1,639 individuals worldwide, of whom 1,341 are employed at the qualifying foreign entity, and approximately 40 individuals at its two offices in the United States. The Petitioner, however, provides no details with regard to individuals employed as software engineers in positions similar to that held by the Beneficiary, nor does it provide any information regarding the training offered to its employees in its claimed proprietary systems. In response to the RFE, the Petitioner stated that it has zero employees in the United States “that are not already on the US [REDACTED] Online Team” that possess the same specialized knowledge as the Beneficiary. The Petitioner, however, did not elaborate on the “US [REDACTED] Online Team” and did

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not provide any information as to how many individuals are on the team and how many of those individuals possess the same specialized knowledge possessed by the Beneficiary. Thus, it is unclear how many employees the Petitioner has on the US [REDACTED] Online Team, how many of them possess the required specialized knowledge, and why the Petitioner needs the Beneficiary's claimed specialized knowledge at its U.S. company.

Similarly, the record lacks evidence regarding employees of the foreign entity. Specifically, the Petitioner provides no detail regarding the number of similarly-employed individuals, the length of their employment, and the manner and intensity of their training. Absent evidence to the contrary, we expect that most software engineers holding positions similar to that of the Beneficiary underwent the same training and received the same certification. However, there is no evidence setting the Beneficiary's knowledge apart from the elementary or basic knowledge possessed by others employed by the foreign entity, nor is there evidence that the Beneficiary's knowledge is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the foreign entity or in the particular industry. Although she had no experience with the Petitioner's products and no experience working in the industry in general when commencing her employment abroad in July of 2013, the Petitioner maintains that the Beneficiary quickly achieved proficiency and ultimately worked for at least one year in a specialized knowledge capacity. The short duration (19 months) of the Beneficiary's employment with the foreign entity, her lack of prior experience in the industry, and the absence of documentation comparing the Beneficiary's knowledge and training to other similarly employed individuals raises questions regarding the validity of the Petitioner's claims with regard to the Beneficiary's specialized knowledge and whether the foreign position requires specialized knowledge. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Id.* at 591-92.

Although the Petitioner asserts that the Beneficiary's position in the United States involves specialized knowledge, the Petitioner has not sufficiently articulated or documented its claims. The Petitioner claims that the U.S. position requires an individual holding functional and technical knowledge of its [REDACTED] Online projects. Other than submitting a brief description of the Beneficiary's proposed duties, which states that the Beneficiary's knowledge is essential to launch the Petitioner's newest manufacturing solution in the United States, the Petitioner has not identified any aspect of the Beneficiary's position which involves knowledge that rises to a level that is special or advanced. The Petitioner's description of the duties of the proposed position in the United States includes a vague explanation of how those duties require knowledge of its specific and proprietary repository policies, but does not demonstrate what aspects, if any, of the proposed position require knowledge that is particularly complex or different from what is commonly held within the Petitioner or by other similarly employed individuals in the industry.

Moreover, we recall the Petitioner's claim that it has zero employees in the United States "that are not already on the US [REDACTED] Online Team" that possess the same specialized knowledge as the Beneficiary. This claim implies that those individuals already on the US [REDACTED] Online Team possess

knowledge similar to that of the Beneficiary. The Petitioner, however, did not provide any information regarding the composition of the team, the number of individuals currently on the team, the training required to become a team member, and whether any of those individuals possess the same specialized knowledge possessed by the Beneficiary.

Overall, the evidence does not reflect how the knowledge and experience required for the Beneficiary's positions abroad and in the United States would differentiate those positions from similar positions at other employers within the industry. Moreover, while the Petitioner states that the Beneficiary has been involved with design, development, and coding of its products, it has not provided any evidence demonstrating the Beneficiary's work or crediting her as an author or developer within its proprietary products. In fact, the Petitioner has not provided any evidence of patents, trademarks, or other documentation of the Beneficiary's developmental work to show that any of the claimed products are proprietary. Again, the Petitioner's claim that the knowledge is proprietary, or that the Beneficiary has been directly involved in the development of proprietary products, must be accompanied by evidence establishing that the Beneficiary possesses knowledge that is different from what is generally possessed in the industry; any claimed proprietary knowledge must still be "special" or "advanced." Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). Specifics are clearly an important indication of whether a beneficiary's duties involve specialized knowledge, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

For the reasons discussed above, the evidence submitted does not establish that the Beneficiary possesses specialized knowledge or has been or will be employed in a specialized knowledge capacity. *See* section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

IV. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 136; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of E-US LLC*, ID# 15238 (AAO Jan. 29, 2016)