U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF D-C-S-C- LLC

DATE: JUNE 9, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a company engaged in the sale of food service products, seeks to temporarily employ the Beneficiary as a market research analyst-international under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) § 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, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not establish that the Beneficiary has specialized knowledge, that he has been employed in a specialized knowledge capacity abroad, or that he would be employed in the United States in the specialized knowledge capacity.

The matter is now before us on appeal. In its appeal, the Petitioner contends that it has submitted sufficient evidence to demonstrate that the Beneficiary holds specialized knowledge of the company's products, market research, manufacturing techniques, and marketing management and their application into international markets, and that he holds advanced knowledge of the company's manufacturing, marketing, and sales processes and procedures.

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.*

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.

II. SPECIALIZED KNOWLEDGE

The sole issue to be addressed is whether the Petitioner has established that the Beneficiary possesses specialized knowledge and whether he has been employed abroad and will be employed in the United States in a specialized knowledge capacity.

A. Evidence of Record

The Petitioner filed the Form I-129 on July 13, 2015. The Petitioner stated that it is one of a group of companies referred to as the ' the "world's largest manufacturer of The Petitioner indicated that it has over 300 employees and that it earned more than $10 million in revenue in 2013. The Petitioner explained that the group is "unique in its ability to focus on and integrate every stage of the manufacturing and distributing process from the processing of raw materials to the delivery of finished products on its own fleet of trucks." The Petitioner stated that it acts as "the sales arm of the '

The Petitioner explained the Beneficiary will be working in the United States in the position of "market research analyst-international." The Petitioner stated that the Beneficiary has over 10 years of experience with the company's international marketing strategies and product lines and that he would "utilize his proprietary knowledge of our company products to oversee the development of marketing strategies for assigned international markets, specifically Mexico and Latin America." The Petitioner also indicated that the Beneficiary holds "unique understanding of [the company's] product development process" allowing him to support marketing projects in Mexico and Latin America.

The Petitioner described the Beneficiary's proposed role as follows:

> [The Beneficiary] will utilize his proprietary knowledge to manage the . . . projects from research to proposal, to launch, including various deliverables for each phase. He is also responsible for product training, product reviews (testing), decisions on testing criteria, publication of results and the development of sales resources including, research on competitive products, manufacturers, comparative tools, demonstrations and key product feature descriptions. He will utilize his 10 years of in-company experience to work with the International Marketing Management group to make recommendations, assess proposals, conduct product reviews and recommendations, as well as make decisions related to various group components of these projects. He would also utilize his 10 years of in-company experience to be responsible for the prioritization of those projects based on corporate, divisional and departmental needs.

The Petitioner listed eight separate projects for which it says the Beneficiary's knowledge of products and marketing strategies in Mexico is required:

1. Packaging requirements (i.e. sleeve count, graphic sleeve layout and graphic carton layout);
2. Design and aesthetics for existing and additional cups;
3. Potential for stock print designs for various product categories (and proposal for specific cup sizes);
4. Design and implementation of branding and marketing efforts;
5. Potential of additional products/items for specific product categories;
6. Design and launch of new product introduction campaigns;
7. Potential non-foam product range opportunities for shipment out of Mexican facilities; and
8. Potential light-weighting of specific existing products.

The Petitioner stated that the Beneficiary has worked for its Mexican affiliate since March 2005, most recently as a national account manager. The Petitioner indicated that the Beneficiary has been charged to "oversee and manage business relationships with key accounts, establishing a high level of personal credibility with decision-makers of these accounts" and to "lead the bidding processes set by the national accounts and coach on the development of new packaging products, new products, and special products." The Petitioner explained that the Beneficiary "develops and implements customized business plans unique to each account and geographical location" and "develops pricing strategies and investigates the practices of competitors and new market trends and conditions." The Petitioner stated that the Beneficiary also "establishes and oversees the sales forecast in order to improve operational efficiencies and maintain[s] an optimal level of product in stock" and that he "trained new sales representatives on the product lines."

The Petitioner submitted the Beneficiary's resume which indicated that he has been responsible for sales in Northern Mexico since 2005, first as a market manager until 2013, then as a national account manager from 2014 to the present. The resume stated that the Beneficiary was involved in "building strong relationships with 16 distributors," "strategic negotiations," "business development," "participation in the Mexico's procedures training for sales force during the one face to the customer process," and "support[ing] product training sessions for new sales representatives."

The Petitioner provided a company profile related for the of companies reflecting that in May 2012, the company had acquired the including "approximately 15,000 employees and more than 45 production, distribution center, and office locations in eight countries." A list of manufacturing and distribution centers included three in Mexico, one in Panama, and one in Argentina.

The Director later issued a request for evidence (RFE) stating that the description of the Beneficiary's duties was too broad and did not demonstrate that the Beneficiary's proposed position required specialized knowledge or that he was working in a position requiring specialized knowledge. The Director advised that the evidence was not sufficient to establish that the Beneficiary's knowledge was advanced when compared to his colleagues or differentiated from similar positions at other companies. As such, the Director requested that the Petitioner submit

letters, both from the U.S. entity and the Beneficiary's foreign employer, further describing the Beneficiary's specialized duties, how his position is different from other similar positions, a description of the products, processes or procedures in which he holds specialized knowledge, an explanation of why workers in the field could not perform his duties, clarification as to the minimum time required to obtain his knowledge, and the Beneficiary's role in any significant assignments with the company.

In response, the Petitioner submitted a letter dated August 17, 2015, stating that it requires in each of its marketing segments "unique individuals to fill the role of Market Research Analyst-International who understand that [*sic*] unique market concerns along with the proprietary knowledge of our company's unique products." The Petitioner indicated that the Beneficiary became an employee of the when it purchased the in 2012, and that he had previously worked for since 2005. The Petitioner explained that during his time with he had "gained specialized knowledge of the products unique to and specialized training in our company's unique products" and knowledge "vital to the development of the needs arising from our acquisition of operations in Mexico." The Petitioner stated that the Beneficiary has more knowledge than other employees in the company "specific to unique production and logistical issues."

The Petitioner indicated that the Beneficiary had "frequently negotiated with customers on new, unique, proprietary products and discussed with them the implications of various unique production processes and logistics in Mexico" and applied his proprietary knowledge "to meet the expectations of our clients in this industry in this Mexican market." The proposed U.S. position, according to the Petitioner, requires "immersion in the Latin American market and our proprietary procedures, as well as strong knowledge of our unique product line," including "proprietary contacts and resources," "requirements for project proposals," "engineering and manufacturing functions," "effective sales aids," and "demonstrations and presentations." The Petitioner stated that the Beneficiary would support "the Mexico sales force by researching and recommending new products, developing enhancements to existing products, updating market share reports, analyzing competitive products, [*sic*] ensuring new product launches will be successful, etc."

The Petitioner explained that distribution in the Mexican market is "quite different from the U.S.," indicating that "manufacturers sell to 'mayoristas' who sell to 'medio mayoristas,'" who sell to 'detallistas,' who sell to restaurants and foodservice operators." The Petitioner noted that the Beneficiary has worked these "channels" for many years, "has a solid understanding of the business," and that it "would be a multi-year 'learning curve" for anyone outside of [the company] in Mexico."

Further, the Petitioner stated that the Beneficiary uses his knowledge of engineering and manufacturing design and production of each unique product to "help corporate customers select appropriate applications," including "specific resins" such as "polyethylene terephthalate, polypropylene, polystyrene, expandable polystryne [*sic*], and polylactic acid." The Petitioner stated that "this proprietary knowledge of the plastics and resins" allows the Beneficiary to explain to

customers "how each resin performs in different applications, including the ability to discuss temperance tolerances of each resin pursuant to our unique product specifications."

The Petitioner explained that the Beneficiary's "substantial level of proprietary knowledge" in the company's products and processes makes "him essential towards product training initiatives, integration processes and direct training of new hires." In addition, the Petitioner stated that the Beneficiary uses his proprietary knowledge to "develop and implement customized business plans unique to each account and geographical location," including responsibility to establish and oversee "the sales forecast in order to improve operational efficiencies and maintain an optimal level of product in stock," lead "the bidding process," coach "on the development of new packaging products," and develop proposals.

The Petitioner stated that the Beneficiary has "direct access to various internal tools and systems commonly used for the proposals" and that he will be "key in developing marketing materials." The Petitioner explained that it retained the Beneficiary when it acquired the because of his specialized knowledge in products. The Petitioner indicated that the Beneficiary has "gained a unique understanding of the relationship between our proprietary marketing strategies and its impact on the market in Mexico" thereby leaving him uniquely qualified to perform the duties of the position. Finally, the Petitioner stated that it would take five years of training and experience for another employee to gain the level of knowledge possessed by the Beneficiary.

In addition to support letters from the U.S. and foreign employer, the Petitioner submitted general marketing materials, in English and Spanish, reflecting its various products, which include plastic and foam cups sold in retail packaging, and printed plastic and foam cups and bowls used by retail food and beverage chains.

In denying the petition, the Director stated that although the Petitioner had asserted that it would take five years for another employee to reach the Beneficiary's level of knowledge, it did not provide evidence to substantiate this assertion. The Director stated that the Petitioner did not demonstrate that the Beneficiary's duties were any different from any other marketing executive in any industry. The Director noted that the Petitioner did not explain why others had not been trained to the Beneficiary's level or articulate how many others in the organization held this same level of knowledge. The Director further found that the Petitioner did not sufficiently explain why another person similarly qualified in the Beneficiary's field could not readily acquire the claimed specialized knowledge and perform his duties, nor did it describe how the company's systems and processes are special or advanced when compared to others in the industry.

On appeal, the Petitioner asserts that it has submitted sufficient evidence to establish that the Beneficiary possesses specialized knowledge of the company's products, market research, manufacturing techniques, marketing management, and their application in the Mexican and Latin American markets and advanced knowledge of the company's manufacturing, marketing, and sales processes and procedures. The Petitioner states that the Beneficiary understands the company's production, manufacturing, sales and logistical issues in Latin America thereby making his

knowledge superior to that held by others similarly placed in the company or the industry. The Petitioner contends that the Beneficiary holds a unique combination of experience with the company's proprietary products and cultural knowledge of the Latin American market. The Petitioner notes that he will implement product training for its employees and contends that this training reflects the special and advanced nature of his knowledge. The Petitioner emphasizes the Beneficiary's knowledge of resins and its "styrene polymization processes" and states this knowledge will allow him to design unique products for customers in the Latin American market.

In addition, the Petitioner references a non-precedent decision of this office in which we sustained an appeal filed on behalf of a marketing technical advisor responsible for "the development of methodologies for the marketing and sale of special steels" in the international market. The Petitioner asserts that the Beneficiary will perform similar duties specific to the company's products in Latin America. The Petitioner further cites the decision of the United States Court of Appeals for the District of Columbia Circuit in *Fogo De Chao (Holdings) Inc. v. U.S. Department of Homeland Security*, 769 F.3d 1127 (D.C. Cir. 2014), asserting that the Director failed to consider the Beneficiary's unique knowledge of Latin American business culture and practices and how to present to customers in this market place. Lastly, the Petitioner contends that the Director erred when she required it to "explain how or why more people were not trained to perform the same job as the Beneficiary," asserting that this requirement extends beyond the regulatory requirements.

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 or would be employed in the United States in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In order to establish eligibility, a petitioner must show that the individual beneficiary 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. 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 advanced or special, and that the beneficiary's position requires such knowledge.

In the present case, the Petitioner's claims are based on the both prongs of the statutory definition. Specifically, the Petitioner asserts that the Beneficiary has 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, a 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, a 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.

In the current matter, the Petitioner has not submitted a sufficiently detailed explanation of the Beneficiary's asserted specialized knowledge. For instance, the Petitioner indicates that the Beneficiary holds uncommon knowledge of "specialized training," "unique products," "product development in Mexico," "unique production and logistical issues," "proprietary procedures," "requirements for project proposals," "proprietary contacts," "engineering and manufacturing functions," company "marketing philosophy," "internal tools and systems," and methods of presenting to Latin American customers. However, in each case, the Petitioner has not specifically described the products or their development, the specialized training the Beneficiary conducts, the production and logistical issues the Beneficiary faces, the procedures in which he has knowledge, any proposals he has formulated, specific contacts he has fostered, engineering and manufacturing functions he has dealt with, marketing philosophies or internal tools and systems he utilizes, or methods of presenting that he has mastered with respect to the Latin American market. As noted, 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 and the nature of the Beneficiary's knowledge.

Although the Petitioner makes passing reference to resins used in its products in which the Beneficiary holds knowledge, it does not describe these resins nor does it explain how he gained this technical knowledge in his marketing and account management roles for the foreign entity or how his knowledge is special or advanced compared to that possessed by his colleagues in the company or similarly employed workers in the industry at large. For instance, it is reasonable to conclude that any sales executive, manager, or analyst holds intimate knowledge of the products they sell and their particular marketplace. Indeed, the Petitioner suggests that there are several, or perhaps many, others within the organization fulfilling the same role as the Beneficiary, stating that there are employees acting in his capacity in each "marketing segment." The Petitioner does not articulate how many other marketing segments the company has or how many other marketing analysts it employs. The Petitioner does not explain whether the Beneficiary's knowledge would be advanced in comparison to those who develop or create these products or why he would require an advanced level of knowledge of the manufacturing process in order to market and sell the company's products. The evidence reflects that the company has several locations in Mexico and Latin America and significant sales in this region, suggesting that it is more likely than not that others are acting in the Beneficiary's capacity in this region. The Petitioner does not indicate how many others in the organization hold a similar level of knowledge or indicate the Beneficiary's place within the organization, leaving question as to whether the knowledge could be readily transferred to another employee with the requisite business skills.

On appeal, the Petitioner suggests that the Director acted in error by referencing its failure to articulate why others had not received the level of training as the Beneficiary. However, we do not find this request to be in error or an expansion of regulatory requirements, but in fact probative to determining whether the Beneficiary's knowledge is uncommon when compared to that of his colleagues. The purpose of the RFE is to elicit further information that clarifies whether eligibility for the benefit sought has been established. 8 C.F.R. § 103.2(b)(8).

Without further explanation or evidence that would allow a meaningful comparison between the Beneficiary and similarly employed workers, the Petitioner has not demonstrated that his knowledge is "greatly developed or further along in progress, complexity and understanding" than others similarly placed within the organization. The Petitioner does not describe or document in detail how the Beneficiary gained advanced knowledge in comparison to his many other colleagues positioned in this market place. As previously stated, both "special" and "advanced" are relative terms, and determining whether a given beneficiary's knowledge is "special" or "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. Here, the Petitioner has provided no such specific comparisons to differentiate the Beneficiary's as uncommon or noteworthy in relation to other similarly employed workers.

Further, the Petitioner does not provide objective evidence to substantiate the Beneficiary's knowledge in its various proprietary concepts, such as evidence of his training, his provision of

training to others, correspondence reflecting his involvement in product development, production or logistical issues, proposals or business plans he has formulated, or other relevant documentary evidence that would substantiate his claimed job duties. The Petitioner only provides general marketing materials which hold little probative value in demonstrating the Beneficiary's specific knowledge or how it qualifies as either special or advanced. For instance, on appeal, the Petitioner states that the Beneficiary's provision of training to sales representative is reflective of the advanced level of his knowledge within the organization. However, the Petitioner does not describe the nature of this training in detail or submit documentary evidence to substantiate his provision of this training. Again, the record does not include an organizational chart or other evidence that would show his position in relation to other marketing or sales personnel. 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 Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Further, in the RFE the Director asked the Petitioner to explain the Beneficiary's role in significant assignments. However, the Petitioner did not describe a single project in which the Beneficiary was involved or key clients with whom he worked. As noted, the Petitioner only makes passing reference to some of the products with which the Beneficiary works, such as " Cups," but does not describe these products or explain how the Beneficiary's knowledge of these products is beyond that possessed by others in the organization or could not be transferred to a similarly experienced employee within a reasonable period of time. It is not sufficient to merely state that the Beneficiary has ten years of experience, without further context and an explanation as to how this level of experience compares to others within the organization. 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 asserted that the Beneficiary holds knowledge of distribution procedures in the Mexican market that is "quite different from the U.S." The Petitioner noted that the Beneficiary has worked these distribution channels for many years, "has a solid understanding of the business," and that it "would be a multi-year 'learning curve' for anyone outside of [the company] in Mexico." However, the Petitioner did not describe, other than assigning Spanish translations to the words "wholesalers" and "retailers," how the distribution process differs significantly from that in the United States or other countries or why it is sufficiently complex to require "several years" to learn. Further, the Petitioner has not articulated the Beneficiary's place and experience within this process given his role as a marketing manager and account manager, or explained how he gained an advanced level of knowledge of the Mexican distribution network in comparison to his colleagues working in the same market.

In addition, the Petitioner provides a list of projects in which the Beneficiary would participate in his role as a market research analyst, such as "Packaging requirements (i.e. sleeve count, graphic sleeve layout and graphic carton layout)," and "Design and aesthetics for existing and additional cups," amongst others. However, the Petitioner does not describe these projects in detail, the Beneficiary's proposed, or former, involvement in these projects, or the specialized knowledge

required for each assignment. The Petitioner does not indicate how the Beneficiary is uncommonly qualified to perform these projects when compared to his similarly placed colleagues. Likewise, the Petitioner asserts that the Beneficiary, a former employee, holds advanced knowledge of this company's products and processes. However, the Petitioner does not specifically describe these processes or how the Beneficiary holds special or advanced knowledge of these products and processes when compared to the rest of the employees who joined following the acquisition of in 2012.

Furthermore, the Petitioner has provided little detail or evidence to support a conclusion that the Beneficiary's knowledge is special, or distinct and uncommon, amongst others similarly placed in the industry. The Petitioner has not explained the marketplace in detail or indicated whether other companies distribute similar products in this geographic area. Without evidence to the contrary, it would be reasonable to conclude that there are other competitors also selling plastic and foam cups and bowls in the same marketplace. The Petitioner has not clearly expressed how the Beneficiary's knowledge is distinct or uncommon when compared to these similarly placed sales executives, nor has it sought to differentiate its products from others developed for the food service industry.

On appeal, the Petitioner compares the current matter to a non-precedent decision of this office in which we sustained an L-1B appeal involving a marketing advisor in the steel manufacturing business. First, while 8 C.F.R. § 103.3(c) provides that our precedent decisions are binding on all USCIS employees in the administration of the Act, unpublished decisions are not similarly binding. Regardless, the Petitioner has furnished no evidence to establish that the facts of the instant petition are analogous to those in the unpublished decision, other than the fact that both beneficiaries are involved in professions involving marketing and sales. The fact that the Beneficiary in this case and the beneficiary referenced in the non-precedent decision were employed in marketing related capacities is not sufficient to establish the Beneficiary's eligibility in the current matter. We have no insight into the evidence submitted in the cited non-precedent case, nor how it compares to the evidence provided in the current matter. We note that our dismissal, or approval, is not based specifically upon the field of a beneficiary's work, but on the quality and quantity of evidence submitted that tends to credibly demonstrate that their knowledge is uncommon or noteworthy or advanced in comparison to their colleagues. As we have discussed herein, the Petitioner has not submitted sufficient descriptions and supporting evidence of the Beneficiary's claimed knowledge to establish that it is special or advanced.

Lastly, the Petitioner cites the decision of the Federal Circuit Court for the District of Columbia in *Fogo De Chao (Holdings) Inc. v. U.S. Department of Homeland Security*, 769 F.3d 1127 (D.C. Cir. 2014) asserting that the Director failed to consider the Beneficiary's unique knowledge of Latin American business culture and practices, and methods of presenting to customers in this market place. We note that the record does not contain any prior explicit claim that the Beneficiary in this matter possesses specialized knowledge of Latin American business culture and therefore we cannot find that the Director acted improperly by failing to address such a claim. Regardless, we will consider here the Petitioner's assertion that the Beneficiary holds specialized knowledge of the cultural norms of the Latin American and/or the Mexican marketplaces.

Similar to the Petitioner's other assertions of specialized knowledge, it has not specifically described the nature of this cultural knowledge or how it is different from that held by any sales or marketing employee working in any geographical area. For instance, the Petitioner states that the Beneficiary has special knowledge of presentation techniques and effective sales aides, but it does not describe the nature of these techniques or how they differ from those used in the United States or elsewhere. The Petitioner has not explained whether knowledge of Latin American business culture is uncommon within the organization, which has substantial operations in Mexico and Latin America. The Petitioner does not explain how the Beneficiary gained an uncommon combination of cultural knowledge and knowledge of the company's products and processes in comparison to similarly employed workers, particularly those currently working in the Latin American market. Therefore, we find the Petitioner has not adequately supported its assertions with respect to the Beneficiary's claimed specialized cultural knowledge.

For the reasons discussed above, the evidence submitted does not establish that the Beneficiary possesses specialized knowledge and will be employed in a specialized knowledge capacity with the Petitioner in the United States. *See* Section 214(c)(2)(B) of the Act. Accordingly, the appeal will be dismissed.

III. CONCLUSION

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 D-C-S-C- LLC*, ID# 16910 (AAO June 9, 2016)