



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

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

In Re: 22679176

Date: DEC. 15, 2022

Appeal of Texas Service Center Decision

Form I-129, Petition for L-1B Specialized Knowledge Worker

The Petitioner, a securities brokerage service, seeks to temporarily employ the Beneficiary as a software developer under the L-1B nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows an employer 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 Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary has been employed abroad in a qualifying capacity and is qualified for the United States position. Both determinations rested on the conclusion that the Petitioner had not shown that the Beneficiary’s position abroad and in the United States requires specialized knowledge.

On appeal, the Petitioner asserts that its prior submissions met its burden of proof.

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

I. LAW

To establish eligibility for the L-1B nonimmigrant visa classification, a qualifying organization must have employed the beneficiary “in a capacity that is managerial, executive, or involves specialized knowledge,” 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 specialized knowledge capacity. *Id.* The petitioner must also establish that the beneficiary’s prior education, training, and employment qualify him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. BACKGROUND

The Petitioner stated that it “provides securities brokerage services specializing in algorithmic trade execution for interest rate products.” The Petitioner claimed 35 employees in the United States and

70 worldwide including its subsidiaries in India, Great Britain, and Australia. When the Petitioner filed the petition, its subsidiary in India had 22 employees, 16 of whom were software developers.

According to the Beneficiary's résumé, all of his employment before joining the Petitioner's subsidiary in India took place while he was a student, and involved navigation systems. He accepted a job offer from the Petitioner's subsidiary in February 2018 and began working for the company that July upon graduating from the [REDACTED]. After two years as a software developer, he was promoted to senior developer; at the time of filing in December 2021, he was the only employee at the Indian subsidiary to hold that title. The Petitioner intends to pay the Beneficiary a salary of \$55,000 per year.

III. SPECIALIZED KNOWLEDGE

The Director determined that the Petitioner did not establish that the Beneficiary had previously been employed in a position that involved specialized knowledge, and that the U.S. position involves a special or advanced level of knowledge. The Petitioner does not claim that the Beneficiary's past employment abroad was in an executive or managerial capacity.

As a threshold issue, we must determine whether the Petitioner established that the Beneficiary possesses specialized knowledge. If the evidence is insufficient to establish that the Beneficiary possesses specialized knowledge, then we cannot conclude, first, that the Beneficiary's past employment involved specialized knowledge, and, second, that the Beneficiary is qualified for a position that requires specialized knowledge.

Under the statute, specialized knowledge consists of either "special" knowledge of the company product and its application in international markets or an "advanced" level of knowledge of the processes and procedures of the company. Section 214(c)(2)(B) of the Act.

Specialized knowledge is also defined as 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. 8 C.F.R. § 214.2(l)(1)(ii)(D). A 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. *See generally 2 USCIS Policy Manual L.4(B)*, <https://www.uscis.gov/policy-manual>.

Given the above, to establish that a beneficiary possesses specialized knowledge, a petitioner must specify 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 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.

The Petitioner initially stated:

[The Beneficiary] is an expert in programming languages that are not common nowadays, such as C++ and KDB/Q, and that are used in [the Petitioner's] software.

He has deep knowledge and experience in low latency, low level, multi-threading programming that utilizes networking. He has experience in large scale trading systems design with object oriented programming, design patterns and data structures. The Beneficiary's domain knowledge and experience in designing and developing algorithmic trading strategies in futures and fixed income markets, uniquely complements his technical skills. He also excels in exchange connectivity, market data handlers and FIX protocols.

The Beneficiary has specialized knowledge of Petitioner's software systems and products since he has helped in developing them; see Exhibit 1. Petitioner has been unable to find enough software developers in the United States that have the qualifications and specialized knowledge the Beneficiary possesses.

The Petitioner did not cite any supporting evidence for the assertion that C++ and KDB/Q "are not common" programming languages. Unsupported assertions do not meet the Petitioner's burden of proof.

Although the Petitioner cited Exhibit 1 as evidence of the Beneficiary's specialized knowledge and his role in developing the Petitioner's software systems, that exhibit – a printout from the Petitioner's website – does not support those claims. The printout does not mention the Beneficiary's name. It indicates that the petitioning company was founded in 2008 and "executed its first client trade" "[a]fter 2 years of R&D" (research and development), indicating that the business was underway several years before the Beneficiary was hired in 2018. The headlines of more recent press releases refer to new algorithms and other tools, but do not identify the creators of those tools.

The Director requested additional details, stating that the "description of the beneficiary's specialized knowledge was vague." In response, the Petitioner submitted two nearly identical letters, one from an official of the petitioning U.S. employer, the other from an official of the affiliate in India. Each letter indicates that the Beneficiary "has a unique combination of skills, domain knowledge and experience," and "has contributed to many core components of the trading platform and has deep knowledge of the whole software infrastructure." Both letters also state: "there are no other personnel in the US that is [sic] in the same role and on the same level of proficiency as [the Beneficiary]." Large portions of these letters repeat parts of the Petitioner's earlier letter, sometimes word-for-word.

The Petitioner cited the Beneficiary's "formal education with a master's degree in aerospace engineering showing competence in highly technical engineering and computer skills." The Petitioner did not sufficiently explain how a degree in aerospace engineering provides specialized knowledge relevant to employment at a securities trading firm, rather than a generalized background in computer science. The Beneficiary's transcript from [redacted] lists only two course titles that directly refer to computer programming: "Computational Engineering" and "GPU Programming."

The Director denied the petition, stating that the "description of duties was vague" and not supported by evidence "to show the knowledge involved in performing the duties abroad was special and/or advanced" or that the Beneficiary's "duties for the foreign position are distinguishable from the duties of other similarly employed individuals within your organization and throughout the industry."

The Director also determined that the Petitioner had not submitted “evidence demonstrating that the beneficiary gained significantly different on-the-job knowledge than other employees within the company or received advanced or special training with respect to such product or service,” or comparing “the beneficiary's knowledge to that of other employees and workers in the same field.”

On appeal, the Petitioner quotes from earlier statements and asserts that, apart from those statements, “the only other means to show [the Beneficiary’s] specialized knowledge is to submit work product which is highly technical . . . and can only be understood by people with similar expertise.” This assertion does not answer the Director’s concerns. The Petitioner has identified the tools that the Beneficiary uses as a senior developer, but the Petitioner has not shown that the Beneficiary’s mastery of those tools amounts to specialized knowledge as contemplated by the statute and regulations. Identifying the programming languages that the Beneficiary uses does not establish that those languages “are not common” in his field, or that the skills the Beneficiary uses as a senior developer cannot be easily imparted to other workers in that field.

We will dismiss the appeal, because the evidence 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. Therefore, the Petitioner has not established that the Beneficiary was employed abroad in a position requiring specialized knowledge, and that the Beneficiary is qualified for a position in the United States that requires specialized knowledge.

ORDER: The appeal is dismissed.