



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

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

In Re: 21035303

Date: SEP. 02, 2022

Appeal of California Service Center Decision

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

The Petitioner, a provider of video security cameras and Cloud-based surveillance solutions, seeks to temporarily employ the Beneficiary as a Solutions Engineer 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 of the California Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary possesses specialized knowledge, that he was employed abroad in a capacity involving specialized knowledge, and that he would be employed in a specialized knowledge capacity in the United States. The matter is now before us on appeal.

In these proceedings, it is the petitioner’s burden to establish eligibility for the requested benefit by a preponderance of the evidence. *See* Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

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).

Under the statute, a beneficiary is considered to have specialized knowledge if he or she has: (1) a “special” knowledge of the company product and its application in international markets; or (2) an “advanced” level of knowledge of the processes and procedures of the company. Section 214(c)(2)(B)

of the Act, 8 U.S.C. § 1184(c)(2)(B). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition of specialized knowledge.

Specialized knowledge is also defined as special 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).

II. BACKGROUND

The record reflects that the Petitioner was established in 2016 and had approximately 700 employees and three offices in the United States at the time of filing. The company provides enterprise customers with video security solutions that combine "cutting-edge camera technology with intelligent, web-based software." The Petitioner emphasizes that, "[u]nlike existing systems, [the company's] technology eliminates outdated equipment such as network video recorders and offers the protection of full encryption with no special configuration required." It further notes that its Cloud-based security cameras improve security, minimize bandwidth consumption, and offer reduced costs. The Petitioner states that it serves over 3000 enterprise organizations.

The Petitioner provided evidence that the Beneficiary has been employed by its United Kingdom subsidiary in the position of Solutions Engineer since December 2019. It now seeks to employ him as a Solutions Engineer in its U.S. headquarters. The Petitioner indicates that the U.S. role will involve recommending product adjustments based on the needs of customers in international markets; providing in-house training to other U.S.-based solutions engineers; providing technical guidance, troubleshooting and support for U.S.-based customers with international operations; and working with product and sales teams to improve product performance and competitiveness.

The Beneficiary received a bachelor of science degree in Network Management and Design in 2018. The Petitioner states that his work experience includes one year as a network developer intern with [REDACTED] U.K. operations, where he completed a [REDACTED] Certified Network Professional [REDACTED] certification, and approximately 15 months of post-graduate experience as a field engineer with [REDACTED] where he completed a Microsoft Azure certification. The Petitioner indicates that the Beneficiary also has a [REDACTED] Security certification and a certification from Amazon Web Services.

III. SPECIALIZED KNOWLEDGE

The primary issue to be addressed is whether the Petitioner established that the Beneficiary possesses specialized knowledge, that he has been employed abroad in position involving specialized knowledge,¹ and that he will be employed in a specialized knowledge capacity in the United States.

¹ The Petitioner did not claim, in the alternative, that the Beneficiary was employed abroad in a managerial or executive capacity. See 8 C.F.R. § 214.2(l)(3)(iv).

In the denial decision, the Director determined that the Petitioner did not establish that the Beneficiary's knowledge of the company's products, technologies and methodologies is significantly different from the knowledge possessed by similarly employed workers in the same industry, or that such knowledge equates to specialized knowledge. In this regard, the Director acknowledged the Petitioner's claim that the Beneficiary had received extensive internal training but concluded that the record did not support a determination that his company-specific knowledge could not be readily taught or transferred to a worker with a similar educational and professional background. Further, the Director determined that the Petitioner did not adequately compare the Beneficiary's knowledge with that possessed by other solutions engineers employed within the organization or within the industry in support of its claim that he possesses special or advanced knowledge.

On appeal, the Petitioner asserts that the Director did not fully consider the supporting statements or other evidence submitted with the petition or properly apply the relevant law, regulations, and USCIS policy relating to specialized knowledge. The Petitioner emphasizes the complex nature of its proprietary products and solutions and the highly competitive nature of its industry in support of its contention that it would be time- and cost-prohibitive to hire and train a solutions engineer from outside the company to perform the proposed duties in the United States.

A. Evaluating Specialized Knowledge

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 he possesses specialized knowledge, then we cannot conclude that he has been employed abroad in a position involving specialized knowledge and would be employed in the United States in a specialized knowledge capacity.

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. With respect to "advanced knowledge," a petitioner may meet its burden through evidence that a given 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. Knowledge that is commonly held throughout a petitioner's industry or that can be readily imparted from one person to another is not considered special or advanced knowledge.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether the beneficiary actually possesses specialized knowledge. We cannot make a factual determination regarding a given 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 knowledge. The petitioner should also describe how an employee is able to gain specialized knowledge within the organization and explain how and when the individual beneficiary

gained such knowledge. Here, for the reasons discussed below, the Petitioner has not established that the Beneficiary possesses specialized knowledge.

B. Special or Advanced Knowledge

Special knowledge concerns knowledge of the petitioning organization's products or services and its application in international markets. As noted, to establish that a beneficiary has special knowledge, 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 states that the Beneficiary possesses special knowledge of the company's "proprietary products in healthcare, hospitality and manufacturing verticals, limitations on core features in the European market, as well as [its] processes and procedures for delivering, implementing and integrating [the company's] enterprise customer accounts."

With respect to its proprietary products, the Petitioner emphasizes its position as an industry leader in the global video surveillance market, placing it "at the forefront of the competitive race to develop the best and most innovative products." While the Petitioner has explained how its camera and Cloud-based solutions improve upon older, traditional video surveillance solutions, it does not further explain how or to what extent the Petitioner's products and solutions are distinct from those offered by its competitors in this sector. Rather, it generally states that it has "processes and procedures" for implementation of its solutions that are "unique" and "not easily replicable or transferable between competing companies in the industry." Therefore, it claims that the knowledge required to perform the duties of a solutions engineer within its group of companies is "special knowledge" that is truly distinct from what is held by other similarly employed workers who are not familiar with the Petitioner's proprietary products and video surveillance solutions and its methods for implementing them.

The statutory and regulatory definitions of "specialized knowledge" do not include a requirement that a beneficiary's knowledge be proprietary. However, a petitioner might satisfy the definitions by establishing that a beneficiary's purported specialized knowledge is proprietary, if the petitioner also demonstrates that the knowledge is either "special" or "advanced." By itself, simply claiming that knowledge is proprietary will not satisfy the statutory standard. We look at the nature of the proprietary knowledge, how it can be acquired within the company, and when and how a given beneficiary gained such knowledge to determine whether the knowledge qualifies as "special knowledge."

The Petitioner has not provided sufficient explanation or evidence to support its claim that the proprietary knowledge required to perform the duties of a solutions engineer can only be gained through extensive internal training. In its initial letter in support of the petition, the Petitioner stated that the Beneficiary's specialized knowledge was gained through his employment with its U.K. subsidiary, noting that he "participated in extensive training of the [company's] product stack, gaining detailed and internal workings knowledge, leading to his certification as a [redacted] Certified Engineer." The Petitioner indicated that based on this certification, the Beneficiary "has advanced knowledge of our internal processes and procedures for developing the [redacted] product stack." A

letter from the U.K. subsidiary's director of sales further states that the company's technical training program "consists of both theoretical and practical training and covers skills such as Computer Networking, Electrical Engineering, Security infrastructure, Cloud Technologies and gaining hands-on field experience and training on the entire [] Technology Stack."

At the time of filing, the Petitioner did not further describe or document the nature of the training that leads to certification as a [] Certified Engineer, indicate the length of such training or provide evidence that the Beneficiary completed it. In a request for evidence (RFE), the Director advised the Petitioner that its initial evidence did not explain how the Beneficiary acquired his claimed specialized knowledge or document the specific trainings he completed. The Director listed evidence the Petitioner could provide to corroborate the Beneficiary's "extensive training," such as copies of his training or personnel records; a letter stating the minimum time required to obtain the claimed specialized knowledge (including training and post-training experience); additional details regarding the training program and any pre-requisites for the training; and curricula and training manuals for internal training courses.

In response to the RFE, both the Petitioner and the foreign entity indicated that the Beneficiary completed approximately nine months of "advanced" internal trainings that included the [] Certified Engineer program. In addition, it included training slides for this program. The first slide, which includes an agenda, states:

This training covers all [] products, from installation to operation. All components plus a final 50 question exam must be completed to achieve the certification. The morning will cover Cameras and Sensors, and after a lunch break, we will cover the full access control installation. There will be a hands-on lab after each section.

The Petitioner also submitted training slides for the [] Access Control "Partner Training Program." The agenda for this training indicates that it covers three chapters with each session lasting approximately one hour, followed by an exam. Based on the documentation provided, it is evident that both the [] Certified Engineer training and the Access Control training are designed as one-day programs, despite covering a significant amount of material.

Although requested by the Director, the Petitioner did not provide evidence demonstrating that the Beneficiary completed the training or identify who within the company is required to complete the training. In addition, the Petitioner did not indicate how long it would take for someone with a similar educational background, professional experience, and relevant third-party industry certifications to be trained as a solutions engineer.

Notably, the supporting evidence submitted in response to the RFE did not corroborate the Petitioner's and foreign entity's claim that the Beneficiary completed nine months of advanced internal training during his tenure with its U.K. subsidiary. Rather, the limited supporting evidence suggests that the company's internal [] Certified Engineer" course, which is claimed to result in "advanced knowledge" of the company's products and processes, is designed to be completed in one day. If the Beneficiary completed additional training beyond attending several one-day courses, such training has not been adequately described or documented in the record.

As such, the Petitioner did not support its claim that an understanding of its proprietary products and solutions equates to specialized knowledge that can normally only be gained through a significant period of training within the organization. Rather, the evidence indicates that the knowledge could be readily transferred to an employee with the appropriate undergraduate degree, third-party industry certifications, and relevant professional experience in networking, security, and Cloud-based solutions.

We do not question that the Beneficiary is well-qualified to perform the intended duties in the United States based on his experience with the foreign subsidiary or that the Beneficiary, as of the date of filing, was the most experienced solutions engineer employed by the Petitioner's subsidiary, which was established only two years prior to the filing of the petition.² However, the Petitioner has not demonstrated that its solutions engineers are required to complete extensive internal training in order to provide the services the position demands or that the position otherwise requires special knowledge of the company's products or processes for delivering solutions to customers.

Based on the foregoing discussion, we conclude that there are unresolved ambiguities in the record regarding the nature, scope and length of training provided to the organization's solutions engineers. Further, the record lacks information and documentation regarding the specific training completed by the Beneficiary and does not corroborate the Petitioner's claim that he completed nine months of training. While completion of company-specific training may support a claim of specialized knowledge, the Petitioner must still establish that the training conveyed knowledge that is distinct from what is commonly held in the industry and knowledge that could not be readily imparted to similarly qualified employees from outside the company. The evidence submitted does not sufficiently establish how long it would take an individual who meets the company's hiring criteria to acquire the knowledge needed to perform the duties of a solutions engineer. Due to these deficiencies, we cannot make any meaningful comparison between the Beneficiary's knowledge and the knowledge held by other similarly employed workers in the industry and cannot conclude that the knowledge the Beneficiary possesses of the company products is "special knowledge." As emphasized above, it is the weight and type of evidence which establishes whether a given beneficiary possesses specialized knowledge.

We have also considered the Petitioner's claim that the Beneficiary possesses special or advanced knowledge related to the application of the company's products in international markets that is not possessed by other solutions engineers within the organization. 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 or expertise that is greatly developed or further along in progress, complexity and understanding in comparison to other workers within the organization.

An organizational chart for the Petitioner's global "Solutions Engineering" department supports its claim that most of the organization's solutions engineers are based in the United States, with only four employed within the group's international operations. To distinguish the Beneficiary's knowledge, the Petitioner has consistently claimed that European regulations governing the use of video

² While the Beneficiary is one of only three solutions engineers employed in the United Kingdom, the record reflects that the Petitioner had approximately 35 to 40 solutions engineers in its U.S. sales organization at the end of 2021.

surveillance are different from comparable U.S. regulations and have an impact on how the company designs and markets solutions for international customers. In its initial letter in support of the petition, the Petitioner described the Beneficiary's knowledge related to international markets as follows:

[The Beneficiary's] specialized knowledge enables him to identify pitfalls including core feature set limitations in the European market surrounding facial analytics and General Data Protection Regulations (GDPR) reducing accessibility of certain product features. He has specialized knowledge in identifying infrastructure and data residency location challenges with global clients in European markets and integration with core services operating out of the United States. He also gained specialized knowledge pertaining to cost hurdles specific to international market competitors, and our ability to develop a "go to" market strategy with products tailored to these spaces.

In response to the RFE, the Petitioner added that this "advanced knowledge of international [redacted] markets in the context of GDPR" along with his "advanced internal trainings on [redacted] product stack" would provide the U.S. company with "an unprecedented level of business and technical knowledge and therefore success." The Petitioner emphasized that the Beneficiary had been involved in the initial procurement of most of the company's clients in the EMEA region and therefore can provide "visibility into the unique challenges of these organizations." It further noted that he has "a deep understanding of needed product adjustments to better penetrate international markets" that is not possessed by the U.S.-based solutions engineers.

The Petitioner consistently asserts that the Beneficiary has acquired an advanced body of knowledge related to the needs of its international customers that is not possessed by its U.S. solutions engineers. However, it does not adequately explain what this knowledge entails, indicate that it could not be readily transferred, or compare it to the knowledge held by other staff within the organization (either in the U.S. or abroad) who also work with international customers. The Petitioner has not identified the differences between the U.S. and international markets with specificity or indicate what types of "product adjustments" are needed to market its products in other regions beyond "reducing accessibility of certain features" in European markets with "stricter regulations surrounding facial analytics." It does not claim, for example, that either the U.S. entity or foreign subsidiary provide training on country-specific regulations or market requirements or otherwise explain how this type of knowledge can be gained within the organization and thus has not supported its claim that it equates to special or advanced knowledge.

Further, the fact that the Beneficiary, with 21 months of company experience, has the longest tenure among the three U.K.-based solutions engineers is not sufficient to demonstrate that he has advanced knowledge in comparison to other employees within the international organization. The record does not establish, for example, that knowledge of relevant international regulations and market requirements is limited to persons who hold the position of solutions engineer within the U.K. operations. The organizational chart provided for the U.K. entity indicates that most of its employees, like the Beneficiary, are in the sales division and would more likely than not be familiar with the needs of clients and potential clients in their assigned international markets. We grant that employees working overseas likely possess deeper knowledge of international markets that is not widely held by U.S.-based staff who work primarily with domestic customers. It is also reasonable to determine that the U.S. staff would possess similar knowledge relative to U.S. regulations governing video

surveillance and relevant information regarding U.S. customers and market sectors that is not possessed by employees within its international operations. However, there is insufficient evidence to establish how this market-specific knowledge qualifies as special or advanced knowledge. Further, the record reflects that the Petitioner already markets its products overseas and therefore reasonably has employees who are at least familiar with the needs of the international markets the company targets. The Petitioner did not provide the information needed to make a comparison between the Beneficiary's knowledge and that possessed by others within the organization and therefore did not establish that he possesses advanced knowledge that sets him apart from others.

We now turn to the Petitioner's remaining claims on appeal. First, the Petitioner asserts that the facts of this case are similar to those in a non-precedent decision in which we sustained the appeal of a petitioner that had filed an L-1B classification on behalf of one of its engineers. This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings and the issues considered. In that case, the record contained evidence that the beneficiary had been involved in the initial design and development of the architecture surrounding the company's proprietary, Cloud-based platform. The facts of this case can therefore be distinguished from those in the cited unpublished decision, as the Petitioner does not claim that the Beneficiary's specialized knowledge derives from his experience in the development of proprietary products. Rather, the Petitioner claims he developed his product knowledge through nine months of internal training, a claim that has not been supported in the record.

Finally, we acknowledge the Petitioner's claim that the Beneficiary possesses characteristics of a specialized knowledge employee consistent with USCIS policy guidance relating to L-1B petitions.³ However, as discussed above, the Petitioner has not submitted sufficient evidence to establish that the Beneficiary possesses knowledge that is either special or advanced. While the Beneficiary may be performing a role that requires complex technical knowledge and that is beneficial to the Petitioner's productivity and competitiveness in the marketplace, these characteristics alone are not probative of his specialized knowledge. As noted in the *USCIS Policy Manual*, the "characteristics" listed by the Petitioner are only "factors that officers may consider when determining whether a beneficiary's knowledge is specialized."⁴ Ultimately, it is the weight and type of evidence that establishes whether the beneficiary possesses specialized knowledge.

For the reasons discussed, the Petitioner has not established that Beneficiary possesses specialized knowledge. It has not shown that such knowledge is sufficiently distinct or uncommon or that it could not be readily transferred to another industry professional with the requisite functional and technological background, nor has it established that his knowledge is advanced when compared to that possessed by others within the organization. The Petitioner's claim that it would require an extensive period of training to acquire the claimed specialized knowledge needed for the U.S. position is simply not supported by the record. Accordingly, the appeal will be dismissed.

³ *See* 2 *USCIS Policy Manual* L.4(B)(2), <https://www.uscis.gov/policy-manual/volume-2-part-1-chapter-4> (providing guidance on factors that may be relevant to a specialized knowledge determination)

⁴ *Id.*

Because the Petitioner has not demonstrated that the Beneficiary possesses specialized knowledge, we need not further address whether he has been employed abroad in a position involving specialized knowledge or would be employed in the United States in a specialized knowledge capacity.

IV. CONCLUSION

For the reasons discussed, the Petitioner has not established that the Beneficiary possesses specialized knowledge.

ORDER: The appeal is dismissed.