U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22121442

Date: SEP. 22, 2022

Appeal of California Service Center Decision

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

The Petitioner, describing itself as a software services and internet technology company, seeks to temporarily employ the Beneficiary as a senior applied scientist in the United States 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 Director of the California Service denied the petition concluding the record did not establish that: 1) the Beneficiary was employed abroad for one continuous year in the three preceding the date the petition was filed, 2) the Beneficiary was employed abroad in a position involving specialized knowledge, 3) the Beneficiary was qualified to perform the intended services in the United States, and 4) the Beneficiary would be employed in the United States in a position involving specialized knowledge.

Upon *de novo* review, we conclude that the record now contains sufficient evidence to overcome the Director's bases for denial.

First, the Petitioner submits additional documentation on appeal sufficient to demonstrate that the Beneficiary was more likely than not employed abroad with a qualifying foreign employer for one continuous year in the three preceding the date the petition was filed. Since the petition was filed on September 29, 2021, the Petitioner was required to establish that the Beneficiary was employed with a qualifying foreign employer for one continuous year, while physically present abroad, between September 29, 2018, and the date the petition was filed. In denying the petition, the Director emphasized that foreign paystubs submitted for the Beneficiary dating from May 2015 to January 2021 were not fully translated. Further, the Director stated that the Petitioner had only provided foreign income tax documentation covering only a four-month period during the qualifying three years preceding the date the petition was filed. However, on appeal, the Petitioner supplements the record with fully translated foreign employer payroll records, which along with the totality of the submitted evidence, demonstrates that the Beneficiary was employed abroad for one continuous year in the three preceding the date the petition was filed.[1]

[1] We also acknowledge that the Beneficiary entered the United States as an L-2 nonimmigrant on December 24, 2019, and that her stated employment with the foreign employer while physically present in the United States was not qualifying

Next, we will analyze whether the Petitioner has established that the Beneficiary was employed abroad in a position involving specialized knowledge and whether she would be employed in the United States in a position involving specialized knowledge.

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).

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. 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.

Determining whether a beneficiary has "special knowledge" requires review of a given beneficiary's knowledge of how the petitioning organization manufactures, produces, or develops its products, services, research, equipment, techniques, management, or other interests. 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. Knowledge that is commonly held throughout a petitioner's industry or that can be easily imparted from one person to another is not considered special knowledge.

The Petitioner has provided detailed, consistent, and credible claims regarding the Beneficiary's knowledge of tools and technologies used to develop and enhance the company's proprietary internet advertising technology. The Petitioner provided sufficiently detailed duty descriptions and explanations of the Beneficiary's knowledge, including documentation substantiating that she was engaged in several high-profile projects related to the company's internet advertising technology over several years and that she developed tools which contributed significantly to its functionality. Further, the submitted evidence credibly establishes that this technology is not commonly held within the industry, and that given the Beneficiary's substantial experience, it is not likely that it could be easily

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foreign employment in the requisite three-year period. However, the record reflects that the Beneficiary was likely physically employed abroad continuously from September 29, 2018, until her entry into the United States as an L-2 nonimmigrant approximately 15 months later.

imparted to another similarly employed worker within the industry. In sum, we conclude that the Petitioner has submitted sufficient evidence to substantiate that the Beneficiary's knowledge is, more likely than not, distinct and uncommon in comparison to the knowledge of other similarly employed workers in the industry. Therefore, the totality of the evidence sufficiently establishes that the Beneficiary possesses specialized knowledge. *See* USCIS Policy Manual, Volume 2, Part L, Chapter 4- Specialized Knowledge Beneficiaries (L-1B), https://www.uscis.gov/policy-manual/volume-2-part-I-chapter-4.

Given that the Beneficiary utilized the discussed specialized knowledge abroad on several projects, developed tools to enhance the functionality of the Petitioner's internet advertising technology, and that she will use this same knowledge in the United States, we conclude that her position abroad involved specialized knowledge and that her proposed position in the United States would involve specialized knowledge. Furthermore, since the Beneficiary is an expert in the tools and technologies used to develop and enhance the company's internet advertising technology and that she has several years of experience working closely with it, we also conclude that she is qualified to perform the duties of the proposed position in the United States.

ORDER: The appeal is sustained.