



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

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

In Re: 22721797

Date: SEP. 27, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a designer and manufacturer of custom kitchens and furniture, seeks to temporarily employ the Beneficiary as a project designer in the United States under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the Texas Service Center denied the petition, concluding the Petitioner did not establish that: 1) the Beneficiary's position abroad involved specialized knowledge, 2) the proposed U.S. position would involve specialized knowledge, and 3) the Beneficiary is qualified to perform the duties of the intended position in the United States.

On appeal, the Petitioner asserts that the Beneficiary is one of only two employees working for the company with his level of knowledge of its products and processes related to the design, manufacture, and sale of custom kitchens. The Petitioner contends the submitted evidence demonstrates that the Beneficiary's knowledge is completely different and unique when compared to his colleagues in the company and similarly placed workers in the industry.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. 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).

## II. BACKGROUND

The Petitioner indicated that it is a newly established branch office of an international group of companies engaged in the development and sale of interior design, primarily high-end cabinetry, and custom kitchens. The Petitioner stated that the Beneficiary began his employment with the foreign employer in April 2019<sup>1</sup> at the company's [redacted] office not long after completing a master's degree in product design. The Petitioner explained that the Beneficiary was tasked with creating custom kitchen and product designs, promoting interest in the company's brand, communicating both to clients, and reporting on and forecasting the status of projects. The Petitioner asserted that this allowed the Beneficiary to obtain intimate knowledge of the company's design principles and aesthetics, sales processes, technical capabilities, innovative materials, values, complex pricing models, and culture.

The Petitioner also indicated that the company has a studio and manufacturing facility in [redacted] where it trains designers in the "art of storytelling and craftsmanship that is unique to the [company's] brand" not practiced outside of this facility. Further, the Petitioner emphasized the company's "confidential and proprietary sales and pricing method," including specialized processes related to project enquiry, project briefing, estimating, technical design, manufacturing, delivery, installation, and completion. The Petitioner stated that the Beneficiary would continue as a project designer in the United States, but that a majority of his time there would be devoted to "teaching and training new designers how to sell, collaborate with clients, and work with the personnel in [redacted] to finalize custom-made design[s]."

Later in response to the Director's request for evidence (RFE), the Petitioner submitted the company's "sales bible," a series of documents reflecting a company roadmap for selling and collecting client requirements and asserted that the Beneficiary's knowledge of these processes demonstrated his specialized knowledge. The Petitioner stated that the Beneficiary had been "trained extensively" on these sales processes and claimed they are "different and unique compared to others in the sector." The Petitioner indicated that the Beneficiary was one of only two people in the entire company who "complete[d] the in-house training" and acquired knowledge of its "sales bible." In addition, the Petitioner emphasized its "exceptional design services" noting that to meet client needs it was required to "develop a fully custom design with new innovative details," further pointing to the company's "design approach" and "sales process."

The Petitioner further indicated that it "trains all staff in-house" including them taking a "trip to our workshops in [redacted] to learn how our manufacturing process[es] work." The Petitioner explained that "over three years [the Beneficiary] has learnt and built upon his in-house training to be able to design and deliver our client demands." The Petitioner stated that the Beneficiary's knowledge of "workshops, technical designers and project managers combined with the understand[ing] of how to interact with our discerning clients takes years to understand." In addition, the Petitioner asserted that the design and sales of its products "is a very different proposition" compared to other kitchens provided in the

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<sup>1</sup> The petition was filed on September 7, 2021. The Beneficiary's proffered salary in the United States was listed in the petition as \$45,000, with additional undisclosed benefits and commissions.

marketplace, noting that others within the industry assemble solutions “from a list of premade units” while each of its designs are custom manufactured.

On appeal, the Petitioner contends that the Beneficiary’s project design function includes aspects of both its sales and designer roles, requiring specialized knowledge not possessed by others within the organization or the industry. The Petitioner emphasizes that the Beneficiary received a master’s degree in product design, and industrial and project design, and that he previously worked for another company in the industry as a design intern and project manager. The Petitioner again asserts that the Beneficiary has been “extensively trained” on the company’s products and processes and states that they are “completely different and unique” compared to others in the industry. In addition, the Petitioner states that the Beneficiary’s knowledge about the company’s products and processes can only be gained through employment abroad and cannot be easily transferred or taught, except through its training provided in [REDACTED]. The Petitioner indicates that other companies in the industry do not provide “the bespoke craftsmanship and specialized attention to each client’s project.” Again, the Petitioner contends that the Beneficiary “is one of only two employees who has received the specialized knowledge to perform his job.”

### III. SPECIALIZED KNOWLEDGE

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether he was employed in a specialized knowledge capacity. As a threshold matter, if the Beneficiary does not possess specialized knowledge, then his position abroad and in the United States would not involve specialized knowledge as necessary to qualify him.

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.

#### A. Advanced Knowledge

On appeal, the Petitioner indicates that the Beneficiary holds knowledge of the company's business and its design and sales functions not possessed by others within the organization, noting he is only one of two within the organization to have this level of knowledge. Determinations concerning "advanced knowledge" require review of a beneficiary's knowledge of the petitioning organization's processes and procedures. 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. Also, as with special knowledge, the petitioner ordinarily must demonstrate that a beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another.

First, the Petitioner has not sufficiently articulated the Beneficiary's knowledge as necessary to determine whether it is advanced as defined by the regulations. For instance, the Petitioner emphasizes several times on the record that the Beneficiary has been "trained extensively." However, the Petitioner did not specifically describe the Beneficiary's training, other than indicating generally that it took place in [redacted] and that it can only be provided at this location. The Petitioner did not indicate how long the Beneficiary's training lasted and whether it involved hands on work, coursework, observation, or other activities. Further, the Petitioner does not articulate how many others within the organization completed this training or submit supporting documentation to substantiate the Beneficiary's completion of this training. The lack of this evidence is particularly noteworthy since the Petitioner also indicated that it "trains all staff in-house," including "a trip to our workshops in [redacted] to learn how our manufacturing process[es] work." Therefore, not only has the Petitioner not sufficiently described and documented the Beneficiary's training, but it also did not indicate how it is greatly developed when compared to his colleagues.

Similarly, the Petitioner does not explain the specific projects on which the Beneficiary worked during his approximately 17 months with the foreign employer, nor did it indicate how they contributed to his claimed advanced knowledge. This lack of explanation and evidence is significant since the Petitioner submitted marketing materials highlighting several projects the foreign employer completed in the [redacted] and elsewhere; however, there is no indication as to whether the Beneficiary was involved in these projects, nor a description of the projects he was engaged in that allowed him to obtain knowledge greatly beyond that of his colleagues. Further, the Petitioner asserted that the Beneficiary "built upon his in-house training to be able to design and deliver our clients demands" and that he held knowledge of "workshops, technical designers and project managers combined with the understand[ing] of how to interact with our discerning clients." However, the Petitioner provided no explanation of, or documentation to corroborate, the projects the Beneficiary completed or the clients he worked with to build this claimed level of advanced knowledge.

Likewise, the Petitioner discussed several company processes in which the Beneficiary had developed advanced knowledge, including its design principles and aesthetics, sales process, technical capabilities, innovative materials, values, proprietary sales and pricing method, and culture. It further mentioned the company's specialized processes related to project enquiry, project briefing, estimating, technical design, manufacturing, delivery, installation, and completion. However, although the Petitioner submits marketing materials and its "sales bible" that generally indicate it has internal processes for marketing, sales, and other functions, it did not sufficiently explain these processes in its support letters, nor did it

specifically describe how the Beneficiary obtained knowledge of these processes that is greatly developed beyond that of his colleagues. For instance, as noted, the Petitioner did not detail and document the nature of the Beneficiary's training and specifically describe the projects on which worked while employed abroad. As we have noted, 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 and the nature of the beneficiary's knowledge.

The Petitioner has also not sufficiently established how the Beneficiary's knowledge is greatly developed as compared to similarly placed colleagues within the organization through the provision of probative comparisons. Determining whether knowledge is "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. The Petitioner bears the burden of establishing such a favorable comparison. However, the Petitioner provided no specific comparisons of the Beneficiary's knowledge and experience against that of his colleagues within the greater organization. The Petitioner only vaguely indicated that the Beneficiary "is one of only two employees who has received the specialized knowledge to perform his job." However, the Petitioner did not identify the other individual in the organization sharing the Beneficiary's level of knowledge or provide specifics related to this employee's training and experience to effectively demonstrate how the Beneficiary and this colleague are set apart.

The Petitioner submitted an organizational chart in support of the RFE reflecting that the Beneficiary reported to a design director and that the Beneficiary supervised a design manager overseeing four "CAD technicians," a "creative design" employee overseeing two subordinates, and a project management employee supervising four project managers. Although the Petitioner indicates that the Beneficiary's role is "very senior," there is little supporting evidence to substantiate this role, such as evidence of him acting at this level within the organizational structure and overseeing several other managers and their subordinates. Further, the Petitioner provides no specific information on the education and experience of the several other colleagues listed in the organizational chart to demonstrate that his knowledge is greatly developed in comparison.

In addition, the Petitioner provided two conflicting organizational charts, the first in support of the petition questionably did not reflect the Beneficiary's place within the organization nor that he acted as a manager overseeing several employees, while the chart provided in response to the RFE showed him in a senior position overseeing several other subordinate managers and their subordinates. The first chart further showed that the design manager reported directly to the design director, while the second chart indicated that the design manager was now the Beneficiary's subordinate and that the Beneficiary reported directly to the design director. The Petitioner provides no explanation for the material difference in these organizational charts submitted only about a month apart from the date the petition was filed to the response to the RFE.

The lack of specific comparisons between the Beneficiary and his similarly placed colleagues is noteworthy since the record indicates that there are several others within the greater organization with extensive knowledge of the company's products and processes. For instance, the Petitioner stated that the Beneficiary works closely with other designers and architects on client projects; however, there is little detail as to the experience and education of these colleagues to indicate how his knowledge is greatly developed in comparison. In addition, in submitted marketing materials, the chief executive

officer (CEO) pointed to the company's establishment of an affiliated project management company in 2006 "to serve interior designers and architects on luxury joinery projects in private homes." The CEO pointed to "a team of highly skilled project managers and technical designers" and noted that the company "doubled the highly skilled team to 45 artisans who are trained through an intensive four-year apprenticeship programme." However, again, the Petitioner provides no specific comparisons of the Beneficiary's knowledge and education to these colleagues discussed by the CEO to establish that his knowledge of the company's products and processes is greatly developed in comparison. Further, the Beneficiary had only approximately 17 months of experience with the Petitioner when the petition was filed, while the "apprenticeship programme" offered to many of his colleagues involves four years of working with the company's specific products and processes, leaving uncertainty as to whether his knowledge would be greatly developed in comparison.

Further, the Petitioner provided biographies for several of its executives on its website, including its "business and design director" describing him as an "award winning furniture designer" and noting his experience in the industry since 2002. Similarly, the biographies discussed an estimating director working with the company since 2011 who "delivered £1M+ bespoke joinery packages worldwide," a design manager who had worked with the organization since 2017, and an operations manager who had been with the company since 2014 with "experience delivering bespoke joinery packages of up to £1.5M." Although the Petitioner need not demonstrate that the Beneficiary's knowledge exceeds that of the company's executives and managers to demonstrate that it is specialized, the substantially greater experience of these individuals within the company leaves question as to its assertion that he is only one of two within the organization with his level of knowledge of the company's products and processes. The Petitioner also does not provide this level of detail with respect to the Beneficiary's experience, namely, by discussing the projects he worked on and how they contributed to his advanced knowledge. It is also reasonable to conclude that there were members of the organization responsible for developing the products, processes, and trainings that the Beneficiary gained knowledge of and completed, leaving even further question as to the Petitioner's vague assertion that he is only one of two with his level of knowledge within the organization. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Although the Beneficiary's education and experience appears noteworthy, it is difficult to discern whether it is greatly set apart from his colleagues as the Petitioner provides little specific information or evidence related to the experience and education of his colleagues. Without this evidence, it appears likely that there are many others with similar knowledge and experience, particularly since the organization employs several other executives, managers, designers, architects, and other employees who likely have high levels of knowledge of the company's products and processes. Although we have little doubt that the Beneficiary is likely a valuable employee, the Petitioner has not met the regulatory requirement of demonstrating with documentary evidence that the Beneficiary's knowledge of the organization's processes and procedures is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations. For the foregoing reasons, the Petitioner did not establish that the Beneficiary possesses advanced knowledge.

## B. Special Knowledge

We will next discuss whether the Petitioner has demonstrated that the Beneficiary's knowledge is "special." 8 C.F.R. § 214.2(l)(1)(ii)(D).

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 asserts on appeal that the Beneficiary's knowledge is distinct and uncommon in comparison to the knowledge of other similarly employed workers in the industry. Upon review, the Petitioner has not established the Beneficiary's knowledge can be considered special as defined by the regulations. First, as we discussed at length in the previous section, the Petitioner does not clearly describe or document the nature of the Beneficiary's knowledge, such as by explaining and sufficiently documenting the specific nature of his knowledge, including the "extensive training" he received and the significant projects he worked on while employed by the foreign employer. The Petitioner also submits conflicting evidence leaving question as to whether the Beneficiary's training could be considered "extensive," including evidence indicating that all of its employees receive "in-house training" in [redacted] and that many others complete a four-year apprenticeship there to learn about its products and processes.

Even if we accept that the Petitioner holds knowledge of specific proprietary products, methods, and processes, and that the Beneficiary has knowledge of them, this alone is not sufficient to establish that his knowledge is distinct or uncommon in the industry. In fact, it is common in nearly every industry for companies to hold unique or proprietary knowledge and to work on highly complex products and services. The Petitioner must set the Beneficiary apart from similarly placed workers within the industry and demonstrate that his knowledge is distinct or uncommon in comparison.

The Petitioner contends that its products and services are uncommon in the industry due to its "unique system." The Petitioner asserts it is the only company in the industry that custom designs and manufactures kitchen and furniture solutions, whereas "the standard model for design and selling kitchens...is to assemble design solutions from a list of premade units." However, the Petitioner provides little supporting evidence beyond its assertions to substantiate that its products, processes, and its practice of custom designing kitchens is uncommon in the industry. In fact, the Petitioner emphasizes the Beneficiary's prior experience with [redacted] as a design intern and [redacted] as a project manager. Likewise, the biographies submitted for the company's executives and managers reference their prior design experience in the industry, as well as master's level educations in design. This includes the Beneficiary's claimed subordinate "design manager," who is noted as having "perfect[ed] his skills at PRODL by ensuring the highest level of standards in customer service and project management." Therefore, the submitted evidence appears to indicate

that the Beneficiary's level of education and experience is likely common for designers within the custom kitchen industry, and without evidence to the contrary, it is reasonable to conclude that other companies have similar proprietary methods with respect to their products, processes, manufacturing, and sales techniques. For example, the Petitioner refers many times to its "sales bible" and the Beneficiary's knowledge of the processes and techniques included therein; however, it did not specifically explain or document how these sales processes and techniques are uncommon within the industry.

The Petitioner did not specifically compare the Beneficiary's education, experience, and training to similarly placed designers in the industry. The submitted evidence appears to suggest that the Beneficiary's level of education is likely common for similarly placed designers. For instance, the provided biographies indicated that each manager had a master's level education in design, suggesting that many within the industry have this level of education as well, including the Beneficiary. In addition, the provided biographies reflect higher levels of experience when compared to the Beneficiary's relatively modest 17 months of experience with the foreign employer. The Petitioner did not sufficiently articulate how the Beneficiary's education and experience is uncommon when compared to other similarly placed colleagues within the industry. Without objective evidence to the contrary, it is reasonable to conclude that there are many other designers who have completed master's levels of education in design, who have approximately two and a half years' experience in their company's products and processes, and who have intimate knowledge of client requirements. Therefore, the Petitioner has not established that the Beneficiary's knowledge is "special" as defined by the regulations.

Again, as a threshold matter, if the Beneficiary does not possess specialized knowledge, then his position abroad and in the United States would not involve specialized knowledge as necessary to qualify him. For the foregoing reasons, the Petitioner has not sufficiently established that the Beneficiary possesses specialized knowledge.

**ORDER:** The appeal is dismissed.