



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

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

In Re: 26244501

Date: APR. 13, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1B Specialized Knowledge Worker)

The Petitioner is a manufacturer of customized trays for the auto, medical, and electronics industries. It seeks to employ the Beneficiary temporarily in the position of “process mechanic for plastics and rubber technologies” 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 California Service Center denied the petition, concluding that the record did not establish that the Beneficiary possesses specialized knowledge and was employed abroad and would be employed in the United States in a specialized knowledge capacity. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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. LAW

To establish eligibility for the L-1B nonimmigrant visa classification, 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. Section 101(a)(15)(L) of the Act. 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. FACTUAL BACKGROUND

The Petitioner is a plastic packaging manufacturer that seeks to expand its existing U.S. manufacturing plant where it designs and manufactures plastic packaging solutions through thermoforming, a “proprietary system of heating and shaping plastic polymers into a form.” The Petitioner explained that thermoforming requires specialized knowledge of its “proprietary processes,” which were not described but were said to include “specific temperature utilization, cycle times, rotation frequency, and machine pressures” and were said to be “proprietary to each and every product” the Petitioner

makes. The Petitioner stated that the success of its U.S. operation hinges on its ability to develop and consistently execute “its proprietary thermoforming manufacturing processes,” which it claims the Beneficiary is “uniquely qualified” to perform because of his vocational training and experience with the proprietary manufacturing processes of [REDACTED], the Petitioner’s parent entity, where the Beneficiary has been employed since August 2019.

The Petitioner elaborated on the Beneficiary’s vocational training, which was three years in duration and involved both classroom and practical experience. The Petitioner stated that the classroom portion was comprised of courses designed by the German Chamber of Industry and Commerce, while the practical training was in the form of an apprenticeship, which the Beneficiary completed at [REDACTED]. The Beneficiary subsequently passed a theoretical and practical examination, which resulted in his becoming “officially accredited” as process technician for plastics and rubber engineering and earning a “Level 4 rating,” which allows the Beneficiary to work autonomously and supervise others. The Petitioner further stated that despite the rigor of the academics and difficulty of the apprenticeship, the Beneficiary was among “the small group of individuals who successfully complete[d]” [REDACTED] apprenticeship program, thereby gaining the knowledge necessary to meet the Petitioner’s business goals.

III. ANALYSIS

The primary issue in this matter is whether the Petitioner 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.

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 the Beneficiary’s past and intended future employment involve specialized knowledge.¹

A beneficiary is deemed to have specialized knowledge if they have: (1) a “special” knowledge of the petitioning organization’s product and its application in international markets; or (2) an “advanced” level of knowledge of the processes and procedures of the petitioning organization. Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition.

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 special or advanced, and that the beneficiary’s position requires such knowledge.

¹ The Petitioner does not claim that the Beneficiary was employed abroad in an executive or managerial capacity.

Special knowledge concerns knowledge of the petitioning organization's products or services and their application in international markets. 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.

Because "advanced knowledge" concerns knowledge of an organization's processes and procedures, the petitioning entity may meet its burden through evidence that the beneficiary has knowledge of or an 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.

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 such knowledge is typically gained within the organization and explain how and when the individual beneficiary gained such knowledge.

The Petitioner explains that in the course of acquiring knowledge that it claims is specialized, the Beneficiary underwent "intensive training over a certain period of time" as part of a "dual training" program which was comprised of "classroom instruction at a vocational school and on-the-job time at a company." The Petitioner clarified that the requisite theoretical knowledge and experience are earned "[a]t the end of the apprenticeship," highlighting the significance of the Beneficiary's apprenticeship with [REDACTED] as part of that "intensive training." It is therefore reasonable to conclude that the Beneficiary could not have assumed a position involving specialized knowledge until he completed the training during which such knowledge is claimed to have been acquired.

In the present matter, the record indicates that [REDACTED] has employed the Beneficiary in the position of process mechanic for plastics and rubber technologies since August 2019. However, the record indicates that a considerable portion of the Beneficiary's period of employment was spent in an apprenticeship which was part of the "dual training" process. Although the Petitioner provided an "Examination Certificate" showing that the Beneficiary completed his vocational training and attained "level 4" qualifications, the certificate is dated June 24, 2022, thereby indicating that most of the Beneficiary's period of employment with [REDACTED] predated the level 4 certification, as it was spent in an apprenticeship which was part of the training process. Accordingly, even if the Beneficiary's training had resulted in specialized knowledge, which the Petitioner would also have to demonstrate, most of his time at [REDACTED] was spent in a training capacity, thus resulting in no more than seven months of post-training employment as of November 2022, when this petition was filed. As such, the Beneficiary could not have accumulated the required one continuous year of employment abroad in a specialized knowledge capacity. *See* 8 C.F.R. § 214.2(l)(3)(iv).

The Petitioner also has not established that the knowledge the Beneficiary acquired during his apprenticeship with [REDACTED] was specialized. In a request for evidence (RFE), the Director stated that the record lacks evidence establishing that the Petitioner's manufacturing systems, processes, and machines are significantly more complex than those commonly used in the manufacturing industry and require knowledge that is either "special" or "advanced." The Director further stated that the Petitioner did not compare the Beneficiary's training and employment to that of others who perform similar types of work within the industry.

In a response letter the Petitioner explained that its organization uses thermoforming and described this manufacturing process as a "proprietary system of heating and shaping plastic polymers into form" to manufacture packaging solutions and claiming that thermoforming "requires specialized knowledge of our proprietary systems." However, the Petitioner did not describe any of its own "proprietary systems" nor did it explain how its use of thermoforming is proprietary to its organization. And although the Petitioner states that the thermoforming process "requires specific knowledge about the thermoplastics used and about the technical parameters of the machines," it is unclear how possessing this knowledge is uncommon among other manufacturers who use thermoforming, which is a manufacturing process used by some companies to manufacture packaging. Thus, although the Petitioner claims that thermoforming is not widely used, this process is not exclusive to the petitioning organization, nor is there evidence that this process is uncommon within the manufacturing industry. See <https://formlabs.com/blog/thermoforming>. It is unclear which characteristics of the Petitioner's manufacturing process, if any, are specific to its organization or why an individual with specialized knowledge is required to implement that process.

The Petitioner also referred to the Beneficiary's duties as "specialized" and claimed that his position requires "mastery" of "specialized duties." For instance, the Petitioner stated that replacing machine and other components is "an important aspect of [the organization's] productivity" and highlighted the Beneficiary's ability to "independently replace infrared radiators in the heater if necessary." However, the Petitioner did not explain why specialized knowledge is required to gain this ability. The Petitioner also stated that the Beneficiary is responsible for ensuring that machines and other devices are operated in compliance with safety regulations, explaining that such compliance helps prevent injury to workers and damage to property during the manufacturing process. As an example, the Petitioner discussed the use of a punching machine with a punching knife, stating that "a cautious approach and the wearing of protective equipment" are required when using this machine. However, despite explaining the importance of safety measures and highlighting the Beneficiary's role in ensuring that those measures are regularly implemented in the manufacturing process, the Petitioner did not establish that specialized knowledge is required to fulfill this role. In sum, the Petitioner did not explain why the Beneficiary's duties require specialized knowledge.

Further, the Petitioner claims that the Beneficiary has mastered the thermoforming process, pointing out that the Beneficiary has gained the ability to work independently and became certified as a shift supervisor in March 2022 and as a trainer in June 2022. However, the Petitioner has not established that these qualifications equate to specialized knowledge. As previously noted, the thermoforming process is not specific to the petitioning organization, but rather is a process employed by other manufacturers. The Petitioner has not distinguished the Beneficiary's knowledge of that process and its components as uncommon among other manufacturers who use thermoforming. See USCIS Policy Memorandum PM-602-0111 at 7, *L-1B Adjudications Policy* (Aug. 17, 2015). And although the

Petitioner claims that thermoforming “requires specialized knowledge of our proprietary processes,” it does not identify or describe those processes to explain how they are proprietary to the petitioning organization and why specialized knowledge is required to employ these processes. Rather the Petitioner claimed that its organization has developed “proprietary processes” that involve “specific temperature utilization, cycle times, rotation frequency, and machine pressures.” However, it did not clarify how these components distinguish the Petitioner’s manufacturing process from those of other manufacturers who use thermoforming. In fact, the Petitioner’s claim that these components of the manufacturing process “are all proprietary to each product we make” indicates that while the components themselves are likely customized in the making of each product, they are likely common to thermoforming and thus probably part of any manufacturing process that involves thermoforming. The Petitioner therefore has not established that mastering the thermoforming process results in special knowledge of its organization’s product, service, or technique, or in advanced knowledge of its organization’s processes and procedures. *See id.*

III. CONCLUSION

For the reasons stated above, the record does not establish that the Beneficiary possesses special or advanced knowledge or that he was employed abroad and would be employed in the United States in a specialized knowledge capacity.

ORDER: The appeal is dismissed.