U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-US LLC

DATE: AUG. 22, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a sports data management company, seeks to temporarily employ the Beneficiary as "Software Engineer – Technical Lead" 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 record did not establish, as required, that the Beneficiary: (1) possesses specialized knowledge; (2) has been employed abroad as a manager or executive, or in a specialized knowledge capacity; and (3) will be employed in the United States in a specialized knowledge capacity.

On appeal, the Petitioner submits a brief asserting that the Director erred by focusing on the Beneficiary's use of company systems and tools rather than taking into account his role in using those tools to create and help develop proprietary products that the company sells to its customers.

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

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within the three years preceding the beneficiary's application for admission into the United States. 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.

The statute defines specialized knowledge as a special knowledge of the company product and its application in international markets or an advanced level of knowledge of processes and procedures of the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). Our regulations define specialized knowledge as:

> [S]pecial 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).

An individual L-1B petition filed on Form I-129, Petition for a Nonimmigrant Worker, must include evidence that the beneficiary's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge, evidence that the beneficiary's prior education, training and employment qualifies him or her to perform the intended services in the United States, and a detailed description of the services to be performed in a specialized knowledge capacity in the United States. 8 C.F.R. § 214.2(l)(3).

II. DISCUSSION

The sole issue to be addressed 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.

The Petitioner has developed a proprietary platform, called [redacted] which is an analytics platform that is sold to and used by professional sports leagues and sports media outlets. The Petitioner stated that the Beneficiary obtained special and advanced knowledge related to [redacted] during his nearly five years of employment with its foreign affiliate, where he worked with legacy software, data collection systems, and internal data life cycles that are proprietary to the company and are necessary to create its "next generation" data software tools. The Petitioner provided extensive documentation regarding its products and pointed to its exclusive data provider agreement with the [redacted] that resulted from the company's development of the [redacted] platform, which will be the focus of the proposed employment in the United States.

On appeal, the Petitioner acknowledges the Director's finding that the Beneficiary's job duties are similar to those of other software developers in the industry, but emphasizes that the Director did not take into account the Beneficiary's documented role in contributing to the development of the Petitioner's flagship product. The Petitioner also discusses in greater detail how the Beneficiary gained his specialized knowledge, and further explains his training and progressive experience, including examples of six different projects in which he created new proprietary technology in his role as a front end developer. The record shows that during his first two years of employment abroad the Beneficiary gained critical knowledge of the company's legacy tools, which served as the foundation for his creation and development of new technology and will continue to similarly serve him in his work with the [redacted] platform in his proposed U.S. employment.

In addition, the Petitioner provides an organizational chart, which shows that of the company's 110 software engineers, only 12, including the Beneficiary, are distinguished as technical leads, whose knowledge of the company's data life cycle and proprietary software is recognized as more highly developed and more complex than that found among other software engineers within the same organization. The record substantiates the Petitioner's claim that the Beneficiary is deemed a design and development expert with respect to the ongoing development of the core platform and is not simply familiar with its use, implementation, and support.

The totality of the evidence establishes that the Beneficiary possesses specialized knowledge, which has been, and continues to be, integral to the Beneficiary's employment with the Petitioner and its foreign affiliate. The record of proceeding, as supplemented by the Petitioner's submission on appeal, now contains sufficient evidence to overcome the basis for the Director's decision.

III. CONCLUSION

The Petitioner has established that the Beneficiary possesses specialized knowledge, and that his employment both abroad and in the United States requires specialized knowledge.

ORDER: The appeal is sustained.

Cite as *Matter of S-US LLC*, ID# 488823 (AAO Aug. 22, 2017)