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U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF X-USA INC.

DATE: JAN. 11, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, an information technology solutions company, seeks to temporarily employ the Beneficiary as a "Senior Consultant – [redacted]" 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 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, Vermont Service Center, denied the petition. The Director concluded that the evidence of record did not establish that the Beneficiary possesses specialized knowledge and that he was employed abroad and will be employed in the United States in a specialized knowledge capacity.

The matter is now before us on appeal. In its appeal, the Petitioner asserts that it established by a preponderance of the evidence that the Beneficiary possesses specialized knowledge. The Petitioner also contends that the Director wrongfully employed a higher than permissible standard of proof and failed to consider the evidence in its entirety.

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

I. LAW

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a specialized knowledge capacity, for 1 continuous year within 3 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 managerial, executive, or specialized knowledge capacity. *Id.*

If an individual will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves "specialized knowledge," the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

The statutory definition of specialized knowledge is as follows:

> For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has 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). Federal regulations clarify the special knowledge requirement as follows:

> [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 petition filed on Form I-129 shall be accompanied by:

> (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
>
> (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
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> (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
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> (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training and employment qualifies him/her to perform the intended services in the United States; however the work in the United States need not be the same work which the alien performed abroad.

8 C.F.R. § 214.2(l)(3).

II. ANALYSIS

The Director denied the petition based on a finding that the Petitioner did not establish that the Beneficiary possesses specialized knowledge or that he has been employed abroad and would be employed in the United States in a specialized knowledge capacity. On appeal, the Petitioner asserts that it established by a preponderance of the evidence that the Beneficiary possesses specialized knowledge.

A. Evidence of Record

The Petitioner, which was established in 2012 and claims five U.S. employees, states that it is "the market leader in Agile, Java, Mobile Development, Big Data and Architecture, and that it "helps its customer introduce Agile methods with the help of change management, coaching, and training." The Petitioner indicated that its group of companies has over 600 employees worldwide employed in the Netherlands, and with its services and product offerings clustered around Continuous Delivery and DevOps, Agile, Full Stack development, Big Data & Science, Cloudification and Data Center Automation.

In a letter signed by its chief financial officer (CFO), the Petitioner stated that the Beneficiary has worked for its Indian affiliate, as a senior consultant – since March 2014, performing the following duties:

- Confer with Systems Analysts, Engineers, Programmers and others to design system and to obtain information on project limitations and capabilities, performance requirements & interfaces;
- Analyze user needs & software requirements to determine feasibility of design within time and cost constraints;
- Design, develop and modify software systems, using scientific analysis and mathematic models to predict and measure outcome and consequences of design;
- Consult with customers about software systems design and maintenance.
- Supervise the work of programmers, technologists and technicians and other engineering and scientific personnel;
- Modify existing software (including but not limited to platform) to correct errors, allow it to adapt to new hardware or to improve its performance;
- Develop and direct software systems testing and validation procedures, programming and documentation;
- Store, retrieve and manipulate data for analysis of system capabilities and requirements;
- Coordinate software systems installation and monitor equipment functioning to ensure specifications are met;
- Obtain and evaluate information on factors such as reporting formats required, costs, and security needs to determine hardware configuration.

The Petitioner explained that its group consists of six "specialized companies" including which The Petitioner stated that the Beneficiary's specialized knowledge relates to solutions and further described this knowledge as follows:

> [The Beneficiary] has an in-depth understanding of – line of products, specifically and He has been part of team since early stages of this product and has detailed understanding of its various functionalities. He is part of the product owner's team and is responsible for defining the Product Feature Roadmap and deciding which feature will go in and which will not.
>
> He began the Test Automation of this product and has created the test automation framework and added test cases for mission critical functionalities. He is currently also responsible for identifying and automating the next best suitable candidate for automation so that Regression test cases can be automated, thus leading to reduced time to market and better Risk management.

The Petitioner explained that the Beneficiary has "a unique skill set and familiarity with all the features and functionalities of the product" based on his "long association with the Product owner team of the product." Specifically, the Petitioner stated that he "personally automated most of the manual test cases to Automated test cases thus bringing down the testing time considerably," and that he is "one of the only members in the team who has all the knowledge required to work on products and take the product to the next level."

With respect to the Beneficiary's proposed position as senior consultant – the Petitioner stated he will "manage overall product vision and continuous improvement" of the engineering process for the platform, including and products, and also work as an "implementation engineer for products." Specifically, the Petitioner stated he will perform the following duties:

> He will perform requirement elicitation and requirement analysis for future version of products based on market research and its validation through frequent interactions with customers and end-users. [The Beneficiary] will also perform product feature prioritization and facilitate feature-driven Devops Release Planning for multiple dependent product development teams, for maximized ROI on engineering effort. Additionally, he will drive engineering process optimization and coordination for Product Development teams distributed across USA, India, and the Netherlands by implementing Devops best practices. Finally, [the Beneficiary] will be responsible for development of common product vision towards supplementing and enhancing solutions for Continuous Integration, Continuous Delivery and Streamlined software release pipelines based on requirements of the client and market trend.

The Petitioner went on to provide a "detailed breakdown of Beneficiary's specialized skills" noting that such skills include an in-depth knowledge of the line of products including and . The Petitioner emphasized that the platform is the flagship product and that the Beneficiary has been involved in the product owner's team from the beginning, making his functional knowledge of its architecture and engineering processes difficult to find in the United States. The Petitioner stated that the Beneficiary acquired these skills during 1.5 years.

The Petitioner further emphasized that the Beneficiary has specialized skills in test automation needs and challenges across many business domains which is one reason he was selected for the product owner's team for The Petitioner noted that the Beneficiary has authored a well-received technical book called "which collects his views and vision about Test Automation," and stated that the Beneficiary brings his vision to the product. The Petitioner also stated that "it is a rare occurrence and a niche skillset to use the test automation experience in developing a product on Test Automation Management " and that it has taken the Beneficiary seven years to acquire these skills.

Further, the Petitioner stated that the Beneficiary has specialized skills in test automation delivery gained over 7 years, during which he has "worked in all phases of software development life cycle and has worked in capacity of Automation tester, Automation Test Architect and Automation Lead." The Petitioner stated that the Beneficiary's knowledge of the existing automation framework for product is "a niche skill" in the United States. Finally, the Petitioner stated that the Beneficiary has gained knowledge of test automation needs across multiple domains over a period of seven years, which allows him to understand the functionality of

The Petitioner's letter also included the following table listing the Beneficiary's relevant training:

Training	**Date**	**Skills Attained**
	July – Sep 2015	product vision for next year 2016
	Apr – June 2015	Competitive analysis of Product against its peers
	Jan – Mar 2015	product vision for year 2015
	Oct – Dec 2014	Advance-level Training for product to understand all features of product in detail
	July – Sept 2014	Beginner level knowledge about and feature understanding of
	Apr – June 2014	Generic knowledge about and

The Petitioner stated that the Beneficiary has completed the following certifications: Test Automation – BDD (June 2015); Test Automation – Selenium (December 2014); Certified Scrum Master (July 2014); ISTQB Certified Associate (July 2010); SQL (Oracle certified professional) (June 2009) and Java (Sun-Certified Java Developer) (January 2009).

The Petitioner provided a copy of the Beneficiary's resume. The resume indicates that the Beneficiary has worked for the Petitioner's Indian affiliate as a "QA Lead" in the health care domain, working specifically with the product, using third-party technologies such as Selenium Webdriver, Groovy and REST client automation. He states that for this assignment, he implemented based Automation framework for Behavior Driven Development.

The Petitioner stated that it was submitting an organizational chart for the foreign entity showing the Beneficiary's placement within the product owner's team. The submitted chart shows the Beneficiary as one of eight employees, identified by first name only, in a department labeled "delivery" and ultimately reporting to

The Director issued a request for evidence (RFE). The Director acknowledged the initial evidence, but advised the Petitioner that it had not articulated when the and products were developed, explained what role the Beneficiary played in each product's development, or submitted evidence to show that he played a significant role in their development. The Director emphasized that the evidence of record did not establish how many employees received similar training in the company's products or why the Beneficiary's knowledge is considered special or advanced compared to other consultants employed within the Petitioner's organization or within the industry. The Director requested additional explanation and supporting documentary evidence to establish the nature of the Beneficiary's specialized knowledge, how and when he acquired it, and how it compares to the knowledge held by similarly employed workers within the company and within the industry

In response, the Petitioner submitted a letter containing much of the same information as its initial letter, and included the following breakdown of the Beneficiary's current duties performed for the foreign entity:

- Prioritize features for and to ascertain that Return on Investment (ROI) is not impacted (25%)
- Implementing products in client environments (25%)
- Customizing products & Creating/modifying plugins for products (20%)
- Implementing Functional, Nonfunctional and Big Data Test automation using Behavior driven development (10%)
- Performance analysis, platform tuning, infrastructure optimization and debugging on production servers (10%)
- Coaching/Training Products to client (10%)

The Petitioner restated the Beneficiary's training history and emphasized that the knowledge he acquired "is quite extensive and specialized and cannot be replaced as the training of any other personnel will incur cost and many man-hours for the petitioner." The Petitioner again submitted an organizational chart which identifies staff by their first name and places the Beneficiary as one of eight persons in a "delivery" team. The Petitioner also provided a letter providing the full names, educational qualifications, salaries, and experience of the other members of the Beneficiary's team, including seven senior consultants and six consultants.

The Petitioner submitted a letter from chief executive officer of the foreign entity, who stated that the Beneficiary's role for the foreign entity can be divided into "product ownership and development" duties and "quality control and test automation architect" duties and a list of duties under each heading. also listed 36 "tools used for automation" which includes Agile Methodology, Java, Selenium, Appium, HTTPClient, RESTClient, SOAPUI, Jenkins, Maven, MySQL, HTML, Unix Scripting among others. He listed seven tools used for the Beneficiary's duties as "Product Owner" which included scrum methodology, JIRA, Rally, MS Visio, MindMap, and Gherkin.

stated that the Beneficiary's training included a 5-day training in ' Product Roadmap" held in in March 2016, but he did not confirm the Beneficiary's completion of the training listed in the chart found in the Petitioner's letter. He emphasized that the Beneficiary's knowledge is specialized and advanced and that his services "are urgently required by our client in the United States." He further stated that the Beneficiary has undergone substantial training at the company's expense and that it would be economically disadvantageous to train another person in the same skills.

In addition, explained that the "generic titles" on the Beneficiary's training certificates "do not represent the length, breadth, and nuances of the training actually received." The Petitioner submitted certificates the Beneficiary received for completion of the following training courses held by the foreign entity:

- Cloud Computing – and (April 15-18, 2016)
- Metrics for Productivity and Efficiency in Agile Training (December 20-22, 2015)
- Techniques for a Great Product Owner Training (August 3-4, 2015)
- BDD Training (February 21-22, 2015)
- Advanced Java & Internals of Java (August 2-6, 2014)
- Product Owner Training (May 17-18, 2014)

The Petitioner also submitted information regarding its products and services, including a sample response to a client's request for proposal which explains the Petitioner's approach to the client's Agile Transformation and its expertise in the client's domains. It briefly references and as tools that the Petitioner would use to deploy the client's solution and future releases.

The Director denied the petition, concluding that the Petitioner did not establish that the Beneficiary possesses specialized knowledge or that he has been and will be employed in a position requiring specialized knowledge. In denying the petition, the Director found that the record lacked substantiating details and corroborating documentation to establish how the Beneficiary's knowledge is different or advanced in comparison to other individuals working for the Petitioner's group or within the industry.

On appeal, the Petitioner emphasizes that it clearly explained that "the Beneficiary was part of the product owner's team from the very beginning" and that he "is therefore one of the very few people involved with the development of the product who therefore understands its evolution and intricacies." The Petitioner asserts that the Director did not adequately explain why the petition and supporting evidence failed to demonstrate that the Beneficiary has specialized knowledge and states that the decision constitutes an abuse of discretion in light of the abundant evidence submitted. The Petitioner also asserts the Beneficiary possesses all of the characteristics of an L-1B specialized knowledge worker according to the latest USCIS policy guidance on this issue,[1] and claims that the Director failed to take into account the impact the Beneficiary's transfer would have on the Petitioner's operations.

B. Analysis

The record does not establish that the Beneficiary possesses specialized knowledge or that he was employed abroad and would be employed in the United States in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In order to establish eligibility, a petitioner must show that the individual beneficiary will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Section 214(c)(2)(B) of the Act. Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." *Ibid.*; *see also* 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 definition. Section 214(c)(2)(B) of the Act.

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. USCIS 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 the its

[1] The Petitioner cites to USCIS Policy Memorandum PM-602-0111, *L-1B Adjudications Policy* (Aug. 17, 2015), https://www.uscis.gov/laws/policy-memoranda.

products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary's knowledge. A petitioner should also describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

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 a 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 advanced or special, and that the Beneficiary's position requires such knowledge.

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). As noted by the Petitioner on appeal, the adjudication in the current matter requires that we determine whether the Petitioner has established the Beneficiary's eligibility by a preponderance of the evidence. The "preponderance of the evidence" standard requires that the evidence demonstrate that the petitioner's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (quoting *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)). In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. Thus, in adjudicating the petition pursuant to the preponderance of the evidence standard, we must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

The Petitioner states that the Beneficiary has special knowledge of the proprietary and the product. The Petitioner states that knowledge of its products cannot be gained outside of its group of companies, and that, within its group, the Beneficiary is "one of very few people" who can understand the products' "evolution and intricacies."

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 the petitioner's industry or that can be easily imparted from one person to another is not considered specialized.

The Petitioner's claim rests on the fact that its products are proprietary and its assertions that the Beneficiary was involved in the development of the product since its very early stages. The current statutory and regulatory definitions of "specialized knowledge" do not include a requirement that a beneficiary's knowledge be proprietary. Section 214(c)(2)(B) of the Act; 8 C.F.R. § 214.2(l)(1)(ii)(D). However, a petitioner might satisfy the current standard by establishing that a

beneficiary's purported specialized knowledge is proprietary, as long as the petitioner demonstrates that the knowledge is either "special" or "advanced." By itself, simply claiming that knowledge is proprietary will not satisfy the statutory standard.

The Petitioner did not clearly describe or document the Beneficiary's role in the development of as a member of the "product owner's team." The Petitioner's initial letter included a very general description of the Beneficiary's current duties and contained only one passing reference to the Petitioner's technology, noting that his duties, since March 2014, have included modifying "existing software (including but not limited to to correct errors." In response to the RFE, the Petitioner submitted two different position descriptions. The Petitioner's letter contained a description indicating that the Beneficiary spends 25% of his time on prioritizing features for and but the remainder of the duties appear to relate to providing customization, implementation and training for customers who purchase products. The foreign entity's letter contained a third, more detailed description of his current duties, indicating that the Beneficiary's role is divided between "product ownership and development" and "quality control and test automation architect duties" and does not appear to focus on any customer-related duties. Finally, the Petitioner submitted the Beneficiary's resume, in which he states that he has served as a "QA Lead" working on an project, in the "Health Care" domain, which suggests that he was working on a project for a client in that industry. The Beneficiary's resume does not mention any experience with or his role on the "product owner's team."

Taken together, the submitted position descriptions do not clearly or consistently describe the Beneficiary's role in the development of the Petitioner's proprietary product or related products and do not adequately support the Petitioner's claim that his claimed specialized knowledge derives from his major role in the development of these products since their early stages. The Petitioner did not provide evidence in support of this claim, such as evidence of his work product or other documentation corroborating his product owner role. A petitioner's unsupported statements are of very limited weight and normally will be insufficient to carry its burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)); *see also Matter of Chawathé*, 25 I&N Dec. 369, 376 (AAO 2010). The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Although the Petitioner submitted an organizational chart for the foreign entity, the chart was very general and simply depicted the Beneficiary as a member of an eight-person delivery team or department; it did not corroborate his membership in the "product owner's team."

In addition, the fact that the Petitioner stated that the Beneficiary underwent progressive training in between April 2014 and September 2015 is inconsistent with its claim that the Beneficiary was intimately involved in the development of this product from its early stages since joining the company in March 2014. Further, it was unclear why an employee who was assigned to a "product owner's team" to develop the product would require training in the same product the Petitioner stated he developed. Nevertheless, the Petitioner identified six different "trainings" broken into three-month time periods, but did not describe the nature of the training,

whether it was classroom or on-the-job training, identify the specific length of this training, or provide evidence of his completion of the training.

In response to the RFE, the Petitioner placed more emphasis on the length of the Beneficiary's training and the associated expense of such training than it did on the Beneficiary's role in the development of its proprietary products. At the same time, the letter from the foreign entity did not mention the 15 months of training the Petitioner listed in both of its letters. Further, the Petitioner did not provide further documentation of this training when it responded to the RFE. Rather it documented the Beneficiary's participation in six company-provided training courses completed over a total period of 18 days, and the foreign entity added that the Beneficiary had recently attended a five-day training in Product Roadmap at the group's office. Therefore, even if the Petitioner is claiming that the Beneficiary's specialized knowledge is based on a lengthy period of training in its products rather than on the actual development of those products, it has not adequately described the nature of this training or documented his completion of the training. Again, a petitioner's unsupported statements are of very limited weight and normally will be insufficient to carry its burden of proof. *See Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). In sum, the Petitioner has not adequately documented its claim that the Beneficiary made substantial contributions to the development of or its claim that he completed 15 months of training related to this product.

Further we note that, although the Petitioner's products are proprietary, the Petitioner has provided very little information regarding the and products in support of a claim that the knowledge required to work on these products could only be gained through either participation in the product's development or, alternately, through a lengthy period of training. The Petitioner provided a copy of the company's response to a request for proposal (RFP) as evidence of the "Agile Transformation" services that it provides, but this document provides no specific information regarding the products of which the Beneficiary is claimed to have specialized knowledge. This document only references and as "tools" used during the release/deployment management phase of a proposed client project.

The Petitioner emphasized the value of the Beneficiary's breadth and depth of knowledge in different test automation technologies across various domains gained through his seven years of work experience, and the foreign entity listed a total of 45 tools the Beneficiary must use for his "automation" and "product owner" duties, of which 43 appear to be third-party programming, automation, testing, database, logging, scripting, and other technologies, and two of which, and described as "test automation management" and "software release management," respectively, are the company's own technology. While the Beneficiary is clearly well versed on a number of automated testing technologies across different platforms and domains, and we do not doubt that he is experienced with the Petitioner's products, the Petitioner has not provided has not provided sufficient explanation or evidence to support its claim that the Beneficiary's proprietary knowledge is truly distinct or uncommon.

We note that the Director requested relevant information in the RFE that would have assisted in making this determination, such as how long it takes for a trained software quality assurance professional in the field to acquire the knowledge needed to perform the duties expected of a senior consultant, how the knowledge required to customize and implement its products is different from that generally found among software professionals in the industry, and how the Beneficiary's training or experience compares to others who have received similar training. While the Petitioner responded to the RFE, much of this relevant information was missing from its response.

Further, as noted, the extent of the information provided regarding the Beneficiary's training was limited to an uncorroborated chart showing approximately 15 months of training in products, and copies of certificates accounting for 18 days of training not listed elsewhere. The Petitioner did not submit any description or evidence of the 15 months of training, such as course titles and completion dates, the content of the training, a description of any on-the-job training, or information regarding the number of other employees who have completed similar training. While completion of company-specific training can support a claim of specialized knowledge, the Petitioner must still establish that the training conveyed knowledge that is not common in the industry and knowledge that could not be easily imparted to similarly qualified employees from outside the company. Without this evidence, we cannot determine how long it would take an IT professional with similar qualifications to acquire the knowledge needed to perform the duties of the senior consultant position, and we cannot determine whether the knowledge required for the position is distinct or uncommon in the industry.

We have also considered whether the evidence establishes that the Beneficiary possesses advanced knowledge. 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 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.

The Petitioner states that the Beneficiary is "one of the very few people involved with the development of the product who therefore understands its evolution and intricacies," and emphasizes that his salary is higher than that of his team members. As noted, the Petitioner states that the Beneficiary is part of the "product owner's team" for it submitted a chart showing him as a member of an eight-member "delivery" team or department, the Beneficiary's resume states that he has been working on an project for a client or clients in the health care domain, and the Petitioner submitted "team details" for a total of eight senior consultants and six consultants. It is not clear whether these 14 employees are claimed to be on the "product owner's team" for The Petitioner listed the education level and salary for each employee, but the "duties" section briefly lists the employee's experience of area of specialization rather than the duties they actually perform for the foreign entity or technologies they use in their roles as consultants with the company.

Despite his "senior" job title and higher stated salary, we cannot determine that the Beneficiary's knowledge of company processes and procedures is advanced in relation to the Petitioner's other employees if we do not have sufficient information regarding those employees' relative knowledge and roles. If all of these employees are on the "product owner's team" then it is reasonable to believe that they have similar knowledge of the architecture, features and engineering processes of the Petitioner's products, and the Petitioner has not offered the information needed to compare the knowledge of "product owner" team members to that of employees who implement and support the same products. Further, as discussed above, the Petitioner has not adequately described or documented the Beneficiary's claimed role in the development of its products in support of its claim that this role resulted in his acquisition of advanced knowledge not widely held within the Petitioner's organization.

Overall, the evidence is insufficient to establish that the Beneficiary's expertise in the organization's processes and procedures after 22 months of employment is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the organization. Here, the Petitioner's claims are not supported by evidence setting the Beneficiary's knowledge of company processes apart from the elementary or basic knowledge possessed by others.

Finally, we acknowledge the Petitioner's claim that the Beneficiary possesses various characteristics of a worker with qualifying specialized knowledge as set forth in USCIS Policy Memorandum PM-601-011, *supra*, at 8. For the reasons 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 filling a role that may be beneficial to the Petitioner's competitiveness in the marketplace, this characteristic alone is not probative of his specialized knowledge. As noted in the memorandum, the "characteristics" listed by the Petitioner are only "factors that USCIS may consider when determining whether a beneficiary's knowledge is specialized" and such factors must be supported by evidence. *Id.* The memorandum highlights that "ultimately, it is the weight and type of evidence that establishes whether the beneficiary possesses specialized knowledge." *Id.* at 10.

Finally, we note that the primary purpose of the Beneficiary's transfer to the United States is unclear based on the evidence submitted. The Petitioner initially stated that the Beneficiary "will manage overall product vision and continuous improvement of the Devops Engineering process" for the but also stated that he "will be working as an implementation engineer for the products." In response to the RFE, the foreign entity noted that the Beneficiary's services "are urgently required by our client in the United States and every bit of delay continues to hurt our company financially." However, the Petitioner never mentioned a specific client project to which the Beneficiary has been or would be assigned, which raises questions regarding the proposed nature of his U.S. duties, duties which have not described in detail in the record.

For the reasons discussed above, the evidence submitted does not establish that the Beneficiary possesses specialized knowledge and that he has been employed abroad and will be employed in a specialized knowledge capacity with the Petitioner in the United States. *See* Section 214(c)(2)(B) of the Act.

III. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains with the petitioner. Section 291 of the Act, 8 U.S.C. § 136. Here that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of X-USA Inc.*, ID# 118540 (AAO Jan. 11, 2017)