



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

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

In Re: 33442848

Date: SEP. 18, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, describing itself as a marketing and consulting company, seeks to temporarily employ the Beneficiary as its director of branding 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 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 Texas Service Center denied the petition on multiple grounds. The Director concluded the Petitioner did not establish that: 1) it had a qualifying relationship with the Beneficiary’s asserted foreign employer, 2) the Beneficiary’s foreign employer was doing business abroad, 3) the Beneficiary was employed abroad with a qualifying organization for one continuous year in the three years preceding the date the petition was filed, 4) the Beneficiary possessed special or advanced knowledge, and 5) the Beneficiary was employed abroad in a position involving specialized or advanced knowledge. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 as the Petitioner did not establish that the Beneficiary was employed abroad in a specialized knowledge capacity for one continuous year in the three years preceding his application for admission into the United States. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner’s arguments with respect to the Director’s other ground for denial. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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, describing itself as a "Contact Center Consulting Company," indicated that the Beneficiary holds an "irreplaceable role" with the company working abroad in Nigeria. The Petitioner stated that the Beneficiary joined the company in March 2021 and focused on enhancing the company's "LinkedIn presence," helping it generate "over 100,000 followers" as well as assisting it in having "LinkedIn followers skyrocket from a humble 5,000 to an impressive 16,000." The Petitioner explained that the Beneficiary "personalized his approach and methodology...allowing the brand to shine and engage with meaningful conversations within the LinkedIn community." It further stated that the Beneficiary took on an expanded role in June 2023 as the director of AI (artificial intelligence) solutions using his "extensive knowledge across LinkedIn, YouTube, and Twitter, seamlessly integrating his AI expertise and training to drive innovation and effectiveness."

In response to the request for evidence (RFE), the Petitioner submitted the Beneficiary's resume reflecting that he was employed as a brand strategist abroad from April 2021 to July 2023. As a brand strategist, the Beneficiary was tasked with building and strengthening the Petitioner's social media presence on LinkedIn, expertly generating and converting leads using data-driven insights, conducting LinkedIn profile optimization, and employing advanced brand techniques and technicalities. Further, the Beneficiary's resume showed he was employed abroad from July 2023 to the date the petition was filed in December 2023 as director of AI solutions spearheading the development and implementation of smart AI tools tailored to match the company's business goals, harnessing AI tools to solve intricate business problems, using day-driven approaches to tap into the power of predictive analytics, and conducting research and data analysis to simplify outsourcing and vendor management decisions.

The Petitioner further submitted an affidavit from its CEO stating that the company "excels in connecting businesses with optimal customer services solutions, specializing in Contact Center Technology and Business Process Outsourcing." The CEO stated that since the Beneficiary began working for the Petitioner abroad, he "has been pivotal in defining our success," using his "unique approach to leveraging LinkedIn" to facilitate significant client engagement, including his "strategic use of tools like LinkedIn Sales Navigator." She indicated the Beneficiary had expertise in "leveraging user data, effective lead generation, understanding behavioral triggers, and geolocation targeting, together with the use of tools such as LinkedIn Sales Navigator, Hubspot, and Trello has led to our success in identifying potential clients." She also explained that the Beneficiary possesses a unique blend of skills, knowledge, and experience differentiating him from others in the company and others who work in the same field, skills and knowledge she considered "advanced compared to others in his field." She noted that the Beneficiary's "unique blend of strategic vision and technical acumen...is a testament to his extensive

learning and application in both fields,” asserting that “gaining a solid foundation in both fields to [the Beneficiary’s] level would take a minimum of 5 years of dedicated study and practical experience.”

In addition, the Petitioner provided an affidavit from the Beneficiary stating that his initial role with the company as a brand strategist “relied extensively on my knowledge and expertise in brand management/strategy and an understanding of the LinkedIn landscape,” but now it had “expanded to include my application of AI technologies, gained through prior experience, research, study, and ongoing training.” The Petitioner also explained that he had earned certifications in AI between May and August 2023, including one titled “Introduction to Generative AI,” noting that the certifications and knowledge “have been essential to my duties.” The Beneficiary asserted that for another individual to “learn how I implement the market analysis model and software tools effectively to be able to [his] job at the Petitioner, it would take around one year of study and on-the-job application of the tools.”

The Petitioner further provided an expert opinion letter from a professor of business and marketing from the [REDACTED] opining that the Beneficiary possessed specialized knowledge of the proprietary processes and procedures and specialized business systems of the Petitioner. He also stated that the Beneficiary is distinguished “by a blend of creativity, strategic thinking, and deep understanding of marketing analytics and AI, positioning him as a standout performer among his peers and competitors in the field.” The Petitioner further submitted numerous emails and screenshots reflecting the Beneficiary’s communications between the Beneficiary and the CEO throughout his employment reflecting a wide range of sales and marketing tasks.

In denying the petition, the Director concluded the Petitioner did not establish that the Beneficiary was employed abroad in a special or advanced knowledge capacity. The Director stated that the Petitioner did not provide sufficient insight into the Beneficiary’s day-to-day job duties and did not establish that his use of the company’s methods, tools, or processes was overly complex or sophisticated.

On appeal, the Petitioner asserts the Director did not sufficiently consider the submitted expert opinion and support letters from its CEO and the Beneficiary. The Petitioner contends these letters address the Beneficiary’s specialized knowledge “based on the Petitioner’s unpublished methodologies and company strategies,” how it is unique to the field, and “not easily replaceable.” The Petitioner points to documentation of the Beneficiary’s experience and qualifications, correspondence and reports reflecting his financial impact on its operations, and the provided expert opinion letter and asserts this evidence demonstrates that his knowledge is sophisticated, complex, and highly technical.

III. FOREIGN SPECIALIZED KNOWLEDGE CAPACITY FOR ONE YEAR

The primary issue in this matter is whether the Petitioner established that the Beneficiary was employed in a specialized knowledge capacity abroad for one continuous year.

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, or both prongs, 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

We will first discuss whether the Petitioner has demonstrated that the Beneficiary was employed abroad for one year in a position requiring knowledge that is "advanced." 8 C.F.R. § 214.2(l)(1)(ii)(D). As a preliminary matter, although the Petitioner vaguely indicates that the Beneficiary's knowledge is "specialized and advanced," it does not address these two bases for eligibility separately and articulate how he meets each standard. Although the Petitioner does discuss the "Beneficiary's specialized knowledge of the Petitioner's unique methodologies and systems," suggesting it asserts he held advanced 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. *See generally 2 USCIS Policy Manual L.4, <https://www.uscis.gov/policymanual>.*

In order to establish the Beneficiary's eligibility, the Petitioner must demonstrate that the Beneficiary was employed abroad in a specialized knowledge capacity for one continuous year within the three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. As discussed, the Petitioner indicated the Beneficiary was employed abroad as a brand strategist from April 2021 to July 2023, and then later as director of AI solutions from July 2023 to the date the petition was filed in December 2023. Therefore, to establish that the Beneficiary was employed abroad in a specialized knowledge capacity for one year, it was required to demonstrate that both of his positions abroad required specialized knowledge, since his later role as director of AI

only accounted for only approximately five months of asserted foreign employment.¹ Here, the Petitioner has not sufficiently established that his initial role as a brand strategist abroad required advanced knowledge.

First, the Petitioner has not sufficiently defined the nature of the Beneficiary's advanced knowledge while employed as a brand strategist. For instance, the Petitioner emphasizes on appeal that the Beneficiary's knowledge is rooted in its "unpublished methodologies and company strategies" and "unique methodologies and systems." However, the Petitioner did not provide a detailed explanation of the claimed proprietary methodologies, strategies, or systems the Beneficiary had knowledge of when employed as a brand strategist. The Petitioner stated that the Beneficiary, during his initial role as brand strategist, used a "unique approach to leveraging LinkedIn" to facilitate significant client engagement, including his "strategic use of tools like LinkedIn Sales Navigator." The Petitioner further pointed to his expertise in "leveraging user data, effective lead generation, understanding behavioral triggers, and geolocation targeting, together with the use of tools such as LinkedIn Sales Navigator, Hubspot, and Trello has led to our success in identifying potential clients." However, in each case, it is not clear how the Beneficiary's use of these third-party software applications, such as LinkedIn Sales Navigator, Hubspot, Trello, amongst others, represented knowledge of the company's proprietary processes and procedures.

Without supporting evidence, it is reasonable to conclude that many other marketing professionals utilize these tools distributed by vendors and that these software vendors likely have proprietary rights to these technologies. It is noteworthy that the Petitioner largely emphasizes the Beneficiary's knowledge of AI in support letters; however, the record reflects that he did not gain knowledge of this technology until after his employment as a brand strategist had concluded, as his certifications reflect that he did not complete them until August 2023. Therefore, in sum, the Petitioner has not sufficiently articulated the company processes and procedures in which he had advanced knowledge during his employment as a brand strategist abroad from April 2021 to July 2023.

The Petitioner also submitted substantial supporting documentation reflecting the work he performed for the company while employed as a brand strategist, including emails and screenshots of direct messages between him and the company's CEO. However, this supporting documentation did not clearly reflect his use of specific company processes and procedures, but his performance of a wide array of administrative and marketing tasks. For example, the submitted communications between the CEO and the Beneficiary show him completing estimates of foreign labor rates and inflation projections, collecting information on outsourcing in India and South Africa, helping the CEO to formulate requests for proposal and information, presenting on brand strategies, assisting in posting messages on LinkedIn and other social media, among other similar tasks. Therefore, in its totality, the supporting evidence reflected the Beneficiary's performance of many different sales and marketing tasks, rather than a focus and mastery of a specific set of methodologies and systems unique to the Petitioner. The Petitioner does not sufficiently demonstrate that the Beneficiary's duties as a brand strategist were materially different from any similarly placed marketing or brand professional, nor does it specifically describe

¹ We decline to analyze and hereby reserve any analysis as to whether the Beneficiary's role as director of AI solutions required advanced or special knowledge. See *INS v. Bagamasbad*, 429 U.S. at 24, 25 (1976); see also *Matter of L-A-C-*, 26 I&N Dec. at 516, 526 n.7 (BIA 2015).

the claimed proprietary processes and procedures he gained knowledge of while employed as a brand strategist.

In addition, the Petitioner's CEO stated that "gaining a solid foundation in both field to [the Beneficiary's] level would take a minimum of 5 years of dedicated study and practical experience," while in contrast, the Beneficiary stated that for another individual to gain his level of knowledge "it would take around one year of study and on-the-job application of the tools." This material discrepancy leaves significant ambiguity as to how long it would take another to reach the Beneficiary's level of knowledge. Further, it is not clear whether this represents the level knowledge required for his former position as a brand strategist, director of AI, or his proposed position in the United States. Regardless, the Petitioner has not clearly articulated how long it would take another to reach the Beneficiary's level of knowledge, and whether his knowledge could not easily be imparted to another, particularly with respect to his initial entry level position as brand strategist. The Petitioner must resolve discrepancies 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).

The Petitioner also did not sufficiently establish how the Beneficiary's knowledge was greatly developed as compared to similarly placed colleagues within the organization by providing probative comparisons of his knowledge against that of his colleagues. Determining whether knowledge was "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. *Id.* However, the Petitioner provided no specific comparisons of the Beneficiary's knowledge and experience as a brand strategist against that of his colleagues within the greater organization. For instance, the Petitioner indicated that it employed another professional based in Nigeria but provided no specifics as to the duties or experience of this employee, nor an explanation of how the Beneficiary's knowledge of its processes and procedures exceeded that of this, or any other, colleague within the organization to credibly differentiate his knowledge and experience.

On appeal, the Petitioner further emphasizes that the Director did not sufficiently consider the expert opinion provided from a professor of business and marketing from the [REDACTED]. This professor opined that the Beneficiary possessed specialized knowledge of the proprietary processes and procedures and specialized business systems of the Petitioner. However, the expert opinion again does not clearly articulate the nature of the Petitioner's proprietary processes and procedures in layman's terms. The professor stated that the Beneficiary is distinguished "by a blend of creativity, strategic thinking, and deep understanding of marketing analytics and AI, positioning him as a standout performer among his peers and competitors in the field." The expert's letter, much like the Petitioner's assertions, emphasizes the Beneficiary's combination of prior marketing knowledge and his knowledge of AI. However, as we have discussed, the record reflects that the Beneficiary did not gain his certifications in AI until May and August 2023, the latter of which was completed only approximately four months prior to the date the petition was filed and after his employment as a brand strategist had ended. Therefore, the provided expert opinion letter does not establish that the Beneficiary's position as a brand strategist was advanced as defined by the regulations. Where an opinion is not in accord with other information

or is in any way questionable, we are not required to accept it or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

We have little doubt that the Beneficiary was likely a valuable employee while employed as a brand strategist, but the Petitioner has not met the regulatory requirement of demonstrating with documentary evidence that the Beneficiary's knowledge while employed in this position required advanced knowledge of the organization's processes and procedures that was 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 while employed as a brand strategist was "special." 8 C.F.R. § 214.2(l)(1)(ii)(D).

Determining whether a beneficiary had "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 had knowledge that was 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. *See generally* 2 USCIS Policy Manual L.4, <https://www.uscis.gov/policymanual>.

Again, as we previously indicated, the Petitioner did not clearly assert whether the Beneficiary's knowledge was advanced or special, or both. However, the Petitioner emphasized that the provided letters and the expert opinion support a conclusion that the Beneficiary held "advanced knowledge compared to others in the same industry." Upon review, the Petitioner has not established that the Beneficiary's knowledge is special as defined by the regulations.

As we discussed at length in the previous section, the Petitioner does not clearly describe the Beneficiary's knowledge in easily understandable terms but submits several tasks and types of knowledge he utilized while performing his primary role abroad as a brand strategist. For instance, as noted, the Petitioner emphasized his use of tools such as LinkedIn Sales Navigator, Hubspot, and Trello, among others, leading to success in identifying potential clients. However, the Petitioner did not adequately demonstrate that the Beneficiary's knowledge of third-party software was distinct or uncommon in comparison to the knowledge of other similarly employed workers in the industry. Again, the Petitioner's CEO, the Beneficiary, and the provided expert opinion letter all suggest that the Beneficiary knowledge is a combination of his use of the discussed software and other marketing techniques, combined with his knowledge of AI. However, as noted, the provided evidence indicates that the Beneficiary did not acquire a high level of knowledge of AI until at least August 2023, or after

his employment as a brand strategist ended. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

The Petitioner states on appeal that the support letters establish that his knowledge is “sophisticated, complex, and highly technical.” Even if we accept that the Petitioner held knowledge of specific proprietary procedures and processes of the company while employed as a brand strategist, 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.

However, the Petitioner did not specifically compare the Beneficiary’s education, experience, and training to similarly placed brand strategists in the industry. For example, the Petitioner submitted documentation reflecting several other brand strategists including “22 amazing young LinkedIn influencers” based just in his country, suggesting it is likely that many others work in this industry and have substantial experience of widely used technologies such as LinkedIn. It is also reasonable to conclude that these professionals likely held knowledge of marketing techniques, branding strategies, and the processes and procedures of their specific clients and employers, much like the Beneficiary. The Petitioner did not sufficiently articulate how the Beneficiary’s education and experience was 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 brand strategists who have extensive experience in their company’s products and processes. Therefore, the Petitioner has not established that the Beneficiary’s knowledge is “special” as defined by the regulations.

IV. CONCLUSION

The Beneficiary did not establish that the Beneficiary was employed abroad in a specialized knowledge capacity for one continuous year within three years preceding his application for admission into the United States. Section 101(a)(15)(L) of the Act. For this reason, the appeal must be dismissed.

ORDER: The appeal is dismissed.