

APR-26-00 09:29A EDWARD LITWIN PC

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P.02

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HELENA YOUNGOSSI

March 30, 1995

Ms. Jacquelyn A. Bednarz
Chief, Non-immigrant Branch
Immigration and Naturalization Service
425 Eye Street North West
Washington DC 20536

Dear Ms. Bednarz:

I was advised by someone at Headquarters that you were the person to answer my question.

By way of background, as you are aware, NAFTA allows the class called "Engineers" to enter the United States in TN status. On occasion, I have prepared paperwork for Software Engineers, who were admitted to the United States. Recently, however, a Software Engineer client was denied admission, the inspector stating that "Software Engineers" are not encompassed within the "Engineer" category.

Since the normal requirement for an engineering position is a bachelor's degree and since at least a bachelor's degree in Computer Science (or, occasionally, some other engineering or related discipline) is the normal requirement for this profession, it would seem to qualify for TN consideration.

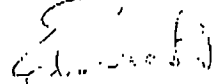
I understand that there may be ambiguities or difficulties in the way that a job is described or its requirements outlined, but, assuming that the job meets the DOT definition of Software Engineer at 030.062-010, is it within the purview of NAFTA?

Your kind attention to this letter would be greatly appreciated.

I am

Sincerely yours,

EDWARD R. LITWIN
A Professional Corporation



EDWARD R. LITWIN
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U.S. Department of Justice

Immigration and Naturalization Service

CO 1815-C

425 Eye Street N.W.
Washington, D.C. 20536

15 MAY 1995

Edward R. Litwin
1435 Huntington Avenue, #336
South San Francisco, California 94080

Dear Mr. Litwin:

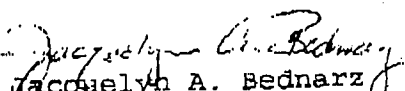
This is in response to your letter of March 30 concerning the admission of a citizen of Canada or Mexico under the North American Free Trade Agreement (NAFTA) in order to engage in business activities at a professional level in the United States. You ask whether the occupation of software engineer is encompassed within the purview of the NAFTA.

As you are aware, under section 214(e) of the Immigration and Nationality Act, a citizen of Canada or Mexico who seeks temporary entry as a business person to engage in business activities at a professional level may be admitted to the United States in accordance with the NAFTA. However, such an applicant must demonstrate business activity at a professional level in one of the professions set forth in Appendix 1603.D.1 to Annex 1603 of the NAFTA.

Appendix 1603.D.1 to Annex 1603 of the NAFTA includes the occupation of "Engineer" within the list of professions. The minimum requirement for an engineer is a baccalaureate or licenciatura degree or a state/provincial license. There is no further delineation of the types of engineering degrees which qualify for TN classification. Accordingly, it appears that an individual engaged in business activities as a "software engineer" at the professional level which require a baccalaureate or licenciatura degree or state/provincial license would qualify under the profession of "engineer" as listed in Appendix 1603.D.1 to Annex 1603 of the NAFTA.

I hope that this response is helpful.

Sincerely,


Jacquelyn A. Bednarz
Chief, Nonimmigrant Branch
Adjudications