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Creating Pathways for STEM Workers Through Non-Legislative Means

Presented by: William Stock

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Creating Pathways for STEM Workers Through Non-Legislative Means

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Abstract: In this panel, *AILA Law Journal* editorial board members and immigration attorneys William Stock and Diane Rish, along with Amy M. Nice, Distinguished Immigration Fellow and Visiting Scholar, Cornell Law School, and Simon Nakajima, Assistant Director for STEM Immigration, White House Office of Science and Technology, discussed various initiatives through non-legislative means to attract and retain STEM talent in the United States through various visa categories. According to the panelists, these initiatives are actions authorized in the Immigration and Nationality Act for the executive branch to undertake.

William Stock

We celebrate, or bemoan, the thirtieth anniversary of the Immigration Act of 1990, which set the fundamental contours of employment-based immigration in the United States, amended by the American Competitiveness in the 21st Century Act. Perhaps we all should have known that it might have been misnamed. It should have been named the American Competitiveness for the 21st Century Act given how hard it is to move legislation through Congress that would help in positive immigration directions.

That provides the impetus for our first panel, creating pathways for STEM (science, technology, engineering, and mathematics) workers through non-legislative means. I want to briefly introduce Diane Rish, who is Senior Manager for Immigration at Salesforce, to my immediate right. To her right, Amy Marmer Nice, distinguished Immigration Fellow and Visiting Scholar with Cornell's Immigration Law and Policy Program. And to my far right, Simon Nakajima, an Assistant Director of the White House Office of Science and Technology, where he is responsible for STEM Immigration. On behalf of *AILA Law Journal*, thank you all for your participation today.

Diane, can you start by speaking about why is STEM talent so highly desired by U.S. businesses and for our economic competitor countries, but in particular within the tech industry?

Diane Rish

I want to start by saying thank you for the opportunity to speak with you today as part of the inaugural *AILA Law Journal* symposium. My remarks

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today draw upon my experience working in-house at Salesforce, which is a cloud-based software company headquartered in San Francisco; experience working at AILA National, advocating for business immigration reform on behalf of businesses and working closely with business groups and coalition partners. And finally, working in the private sector as an immigration attorney, representing clients in the advanced technology, semiconductor manufacturing, cloud computing arenas, among others.

We are living through an extremely exciting and unprecedented time in the technology industry, in particular with artificial intelligence (AI) transforming the economy across all sectors, including business, health care, the financial sector, and even the legal field. Although AI technologies and tools have been around for years, it was just a little more than a year ago, in November 2022, when ChatGPT, a generative AI tool, hit the mainstream and really took the world by storm. Just two months after its launch, it is estimated that ChatGPT reached over a hundred million active users, making it the “fastest-growing consumer application in history.”¹ So I think it comes as no surprise that AI is anticipated to drive a massive transformation in all aspects of our daily lives, in terms of how we live and how we work. Just this past summer, Salesforce’s Chief Executive Officer, Marc Benioff, reiterated this sentiment, stating that “AI is not just the most important technology of our lifetime, but probably the most important in any lifetime.”² Indeed, the tech industry itself has profoundly shifted since the release of ChatGPT. Many of the world’s major tech companies, such as Microsoft, Meta, Google, and even Salesforce, are embracing generative AI, and the generative AI “revolution” as it is being dubbed, and racing ahead to innovate and produce products, services, and business opportunities within the generative AI arena. Salesforce itself has launched a number of AI products. We launched Einstein GPT in 2023. And our most recent launch this year is Einstein Copilot, which is an AI-powered virtual assistant. So, the question now that companies are asking themselves is not “why should AI be embraced,” but rather “how can AI be embraced and how can its challenges be mitigated and its potential leveraged to transform business operations?”

More broadly, beyond just AI, tech companies have been driving path-breaking innovation for many, many years within the broader technology arena and are continuing to do so by developing innovative products, tools, and services that service our economy and our research institutions, among other things. It’s important to highlight that such innovation has led to the creation of new jobs, new opportunities, and new industries here in the United States. Indeed, tech companies are among the nation’s foremost creators of jobs for U.S. workers.³ Yet to maintain their technological competitiveness in a very fierce and fast-moving global marketplace, tech companies seek to attract and retain top talent with STEM expertise to join their workforce.

To attract and retain this top talent, it’s not unusual for companies to recruit both domestically and internationally to really cast a broad net on the

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