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U.S. Citizenship
and Immigration
Services

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FILE: WAC 05 210 53085 Office: CALIFORNIA SERVICE CENTER Date: JUN 25 2007

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for Michael T. Kelly
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner manufactures, imports, and distributes apparel, employs five people, and has a gross annual income of approximately nine million dollars. It seeks to employ the beneficiary as a production coordinator. Accordingly, the petitioner endeavors to classify the beneficiary as a nonimmigrant in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition determining that the position was not a specialty occupation.

The record of proceeding before the AAO contains: (1) the July 25, 2005 Form I-129 with supporting documentation; (2) the director's September 7, 2005 request for further evidence (RFE); (3) the petitioner's November 21, 2005 response to the director's RFE; (4) the director's December 30, 2005 denial decision; and (5) the Form I-290B and counsel's brief in support of the appeal. The AAO reviewed the record in its entirety before issuing its decision.

The issue before the AAO is whether the proffered position qualifies as a specialty occupation. To meet its burden of proof in this regard, the petitioner must establish that the job it is offering to the beneficiary meets the following statutory and regulatory requirements.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

An occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;

- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the above criteria to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

In a July 18, 2005 letter appended to the petition, the petitioner stated it required the services of a production coordinator to closely work with its production bases overseas. Below, substantially verbatim, is this letter's description of the proposed duties:

1. Upon purchase order being confirmed from the customers' end, to assort the detailed information of the order and transfer to the production bases;
2. Follow up for the details of the requirement from customers in the production process, such as the trim packages, lab dips, packing instructions, etc., to keep updating the overseas factories with customers' change requirements, feedback information, until the final stage of confirmation;
3. Keep monitor[ing] and track the status of the production overseas to ensure adherence to time and action calendars throughout the pre-production & production process to achieve on-time delivery;
4. Make production process table and keep updating the customers; trouble shoot issues and provide solutions to issues related to production;
5. Sourcing fabric and production in overseas countries; ensuring the quality of garments by testing pre-production samples and inspecting incoming shipments of goods for manufacturing defects, color and size variances and other related deviations;
6. Coordinating the development of new products, work with Design to ensure mills have seasonal color standards, work with Design to communicate lab dip comments with appropriate mills, manage and track lab dip submissions and approvals;
7. Track development samples, communicate with outside vendors on sample progress and maintain style status reports;
8. Maintain development and production sample libraries;
9. Negotiating costs and determining mark-ups;
10. Prioritizing and [meeting] multiple deadlines, calendars and time sensitive projects;
11. To secure communication accuracy and efficiency with management, the sales force, internal staff and overseas factories; Identify and analyze any problems in time.

The petitioner indicated that in order to perform these duties, the production coordinator must have at least a bachelor's degree in textiles, fashion apparel merchandising, or the equivalent.

In a November 22, 2005 response to the director's RFE, the petitioner provided a more detailed job description of the proffered position, which is summarized below, substantially in the petitioner's language:

1. Upon purchase order being confirmed from the customers' end, to assort the detailed information of the order and transfer to the production bases. (10%) This duty requires the individual:
 - Having knowledge of applying apparel information and management system program to process order information.
 - Ability to correctly translate all apparel technical (process orders) key terms and facilitate communication flows between customers and manufacturer.
 - Having ability to ensure accurate processing of purchase order requisitions.
 - PC knowledge and proficiency along with ability to use related software, such as Excel, Access to set up report and database of each purchase order.
2. Follow up for the details of the requirement from customers in the production process, such as the trim packages, lab dips, packing instructions, etc., to keep updating the overseas factories with customers' change requirements, feedback information, until the final stage of confirmation. (15%) This duty requires the individual:
 - Practical knowledge and experience of production in the sewing plants, fabric, screen print, embellishment etc.
 - The ability to translate all apparel technical terms and communicate with customers and factory.
 - Having technical knowledge of textiles/apparel/fabric construction, properties of woven and knitting fabric, thread count, stitches, fabric weight.
 - Having laboratory experience of garment wash, dying, lab dip.
3. Keep monitor[ing] and track the status of the production overseas to ensure adherence to time and action calendars throughout the pre-production & production process to achieve on-time delivery. (15%) This duty requires the individual:
 - Having the ability to enforce the manfactory [sic] to follow the production schedule; ensure to meet of each account with regards to their specific shipment instructions, import documentation, and reporting specifications.
 - Knowledge of international trade (international trade law, regulations, quota issues etc.) especially in the area of trade in textiles and apparel.
 - The ability to coordinate all international trade procedures and export documents, such as Bill of Lading, Certificate of Origin, Visa Certificate, Commercial Invoice and so on in order to deal with local custom brokers.
4. Make production process table and keep updating the customers; trouble shoot issues and provide solutions to issues related to production. (10%) This duty requires the individual:
 - Follow-ups between production and customer requirements.
 - Developing and updating weekly report, track production stage.

- Having ability to enforce the factory to follow the production schedule, follow the quality control system, and communicate with them effectively and efficiently.
 - Strong problem solving skills.
5. Sourcing fabric and production in overseas countries; ensuring the quality of garments by testing pre-production samples and inspecting incoming shipments of goods for manufacturing defects, color and size variances and other related deviations. (10%) This duty requires the individual:
- Having knowledge and experience of production in the sewing plant, fabric, screen printing, embroidery plant.
 - Familiar with the fashion trend in terms of newest fabric, color, print, embroidery, and trims in the current sweatshirt market.
 - Have the ability to arrange and monitor fabric test.
6. Coordinating the development of new products, work with Design to ensure mills have seasonal color standards, work with Design to communicate lab dip comments with appropriate mills, manage and track lab dip submissions and approvals. (10%) This duty requires the individual:
- Knowledge of textile dyeing, printing, and finishing; color theory; structure, properties, and application of dyes and finishes.
 - At the new collection process, needs assistance on taking detail notes on any changes from initial samples to final stage of marking complete samples.
 - Ability to identify current market trends seasonally and translate them into the philosophy of the business.
7. Track development samples, communicate with outside vendors on sample progress and maintain style status reports. (5%) This duty requires the individual:
- Maintaining records for samples, update the report of development.
 - Providing system support with managing the database, retrieving and tracking samples.
 - Developing and maintaining relationships with customers.
 - Ability to follow the tech pack, and understand customer's requirements.
8. Maintain development and production sample libraries. (10%) This duty requires the individual:
- An extensive understanding of fabric construction washes and finishing is needed.
 - A strong background and knowledge of both knits and woven.
 - Having technical knowledge of printing, embroidery, appliqué knowledge.
 - Well organized and communications skills.
9. Negotiating costs and determining mark-ups. (5%) This duty requires the individual:
- Having knowledge of production cost analysis.
 - Negotiation skills.
 - Knowledge of FOB price, LDP price, and payment terms.
 - Must be numerically strong and understand the relation of sales and inventory.
10. Prioritizing and [meeting] multiple deadlines, calendars and time sensitive projects. (5%) This duty requires the individual:
- Ability to prioritize and balance multiple tasks simultaneously.

- Ability to cope with pressure, multiple deadlines; handle multiple tasks and adapt to the changing needs to the business.
 - The understanding of prioritizing tasks and meeting deadlines.
 - The ability to communicate openly and effectively with others, both internally and externally.
11. To secure communication accuracy and efficiency with management, the sales force, internal staff and overseas factories; Identify and analyze any problems in time. (5%)
This duty requires the individual:
- Strong interpersonal skills, including the ability to regularly interface with and influence management.
 - Having professional communication skills, verbal, data entry and written communication.
 - Ability to work effectively and cooperatively with fellow co-workers.
 - Strong analytical and problem solving skills.

The petitioner also provided copies of newspaper advertisements and Internet job postings for: (1) a production coordinator that listed a bachelor's of art or science degree in business; (2) a production coordinator that required a bachelor's degree in business or economics; (3) a production coordinator that listed a BA/BS in business; (4) a production coordinator for a major specialty chain store that listed a bachelor's degree or equivalent experience as a qualification; (5) a product manager advertised by a staffing company that preferred a bachelor's degree or equivalent experience; and (6) a global product manager advertised by a staffing company that required a BS/BA in business or marketing. The petitioner claimed that the advertisers for the first three positions were companies with four to ten employees and an annual income between \$500,000 and six million.

The petitioner noted that it had not previously employed an individual in the proffered position but that the president of the company had performed the duties of the position. The petitioner indicated that the petitioner's president had a master's degree in business administration and provided a copy of his diploma. The petitioner further indicated that it was expanding, by adding its own line of apparel and manufacturing products by customer request.

On December 30, 2005, the director denied the petition determining that the duties of the proffered position were duties similar to the position of a production, planning, and expediting clerk, an occupation that did not require a bachelor's in a specific specialty. The director found it difficult to ascertain the organizations advertising for positions labeled production coordinator but noted that while the job announcements indicated a bachelor's degree was required, the degrees required were not in a specific discipline or were in a variety of disciplines. The director also found that the list of duties associated with the proffered position was not more unique or complex than other similar positions within the same industry. The director found that the petitioner had not presented evidence that it had previously employed only degreed individuals in the proffered position, as this was the first time the position had been offered. The director finally determined that the petitioner had not established that the duties to be performed in the position are so specialized or complex that the knowledge required to perform the duties would be associated with the attainment of a baccalaureate or higher degree in a specific specialty.

On appeal, counsel for the petitioner asserts that the director mischaracterized the position. Counsel references the California Employment Development Department (EDD) and contends the EDD has categorized this position as an industrial production manager, an occupation that requires a bachelor's degree. Counsel also asserts that a portion of the duties of the proffered position corresponds to the duties described by Jasmine Fashion Inc. in an advertisement for a production coordinator and in an EDD prevailing wage request that lists a bachelor's degree in fashion merchandising or apparel textile, that are submitted on appeal. Counsel also references an EDD prevailing wage request submitted by Sunny Fabric, Inc. that lists similar duties to the proffered position and notes that the position is an industrial production manager that requires a bachelor's degree in business administration. Counsel repeats the petitioner's description of duties for the proffered position and contends that sufficient evidence has been submitted to demonstrate the proffered position meets the criteria of more than one of the four criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

Counsel's assertions are not persuasive. The AAO observes that the critical element is not the title of the position nor an employer's self-imposed standards, but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation, as required by the Act. The AAO disagrees with counsel's assertion that the proffered position is that of an industrial production manager. Turning to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, a source the AAO routinely consults for information regarding the duties and educational requirements of particular occupations, the AAO observes the following in regard to industrial production managers:

Industrial production managers plan, direct, and coordinate the production activities required to produce millions of goods every year in the United States. They make sure that production proceeds smoothly and stays within budget. Depending on the size of the manufacturing plant, industrial production managers may oversee the entire plant or just one area.

The *Handbook's* general description suggests that industrial production managers are responsible for the smooth operation of a manufacturing plant. The petitioner, however, is not a manufacturing plant but rather is a five-person company that interacts with overseas manufacturers and imports and distributes apparel. The record, including the petitioner's description of the duties of the proffered position, does not establish that the proffered position is an industrial production manager position. Even if the AAO considered the duties of the proffered position as similar to the duties of an industrial production manager, which it does not, the *Handbook* reports the following regarding the educational requirements of an industrial production manager:

Because of the diversity of manufacturing operations and job requirements, there is no standard preparation for this occupation. Some employers require a college degree, while other employers train promising apprentices or workers. However, most employers would prefer a college degree, even for those who have worked their way up through the ranks. Many industrial production managers have a college degree in business administration, management, industrial technology, or industrial engineering. . . . Although many employers prefer candidates with a business or engineering background, some companies hire well-rounded liberal arts graduates, who are willing to spend time in a production-related job.

The variety of avenues available to enter into the position of industrial production manager precludes the AAO from concluding that a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the position.

Turning to the more specific duties of the proffered position, the AAO agrees with the director's determination that many of the duties are duties performed by a production, planning, or expediting clerk. The *Handbook* reports:

Production, planning, and expediting clerks coordinate and expedite the flow of information, work, and materials within or among offices. Most of their work is done according to production, work, or shipment schedules that are devised by supervisors who determine work progress and completion dates. Production, planning, and expediting clerks compile reports on the progress of work and on production problems. They also may schedule workers, estimate costs, schedule the shipment of parts, keep an inventory of materials, inspect and assemble materials, and write special orders for services and merchandise.

Production and planning clerks compile records and reports on various aspects of production, such as materials and parts used, products produced, machine and instrument readings, and frequency of defects. . . . They also gather information from customers' orders or other specifications and use the information to prepare a detailed production sheet that serves as a guide in assembling or manufacturing the product.

Expediting clerks contact vendors and shippers to ensure that merchandise, supplies, and equipment are forwarded on the specified shipping dates. They communicate with transportation companies to prevent delays in transit, and they may arrange for the distribution of materials upon their arrival. They may even visit work areas of vendors and shippers to check the status of orders. Expediting clerks locate and distribute materials to specified production areas. They may inspect products for quality and quantity to ensure their adherence to specifications. They also keep a chronological list of due dates and may move work that does not meet the production schedule to the top of the list.

The production coordinator in this matter processes order information and purchase order requisitions; facilitates communication between customers and the manufacturer; enforces the production schedule ensuring shipment instructions, import documentation, and reporting specifications are coordinated; maintains records for samples; provides system support; develops and maintains relationships with customers; and prioritizes and balances multiple tasks simultaneously. These duties are similar to the *Handbook's* description of a production and planning clerk who compiles records, reports on production, gathers information from customers' orders and an expediting clerk who contacts vendors and shippers to maintain shipping dates to ensure production schedules and inspects incoming shipments of goods for manufacturing defects, color and size variances and other related deviations.

In addition, duties such as updating the overseas factories with customers' change requirements, feedback information, and inputting purchase orders suggest the production coordinator will be performing some

clerical type duties. Moreover when describing specific duties, the petitioner indicates the production coordinator will check every detail of the order and input it into the system, and follow-up on discrepancies with the customers and manufacturing facilities, to make sure that there is enough time for the factory to produce the orders, and that the orders are timely received so that they can be inspected, packed, and shipped to individual stores, and this production coordinator also would be responsible for the flow of the shipment from China as well as keeping the customer updated. Again, these duties, although requiring skill and the ability to prioritize, meet deadlines, and communicate with others, do not suggest that the position requires a bachelor's degree in a specific discipline to perform them.

The petitioner in this matter indicates that the production coordinator will have knowledge of textile dyeing, printing, finishing, understanding fabric construction washes, technical knowledge of printing embroidery, appliqué knowledge, and will need this knowledge to interact with design personnel, sourcing personnel, sales representatives, and overseas factories. However, in most industries the employees must have knowledge of the technical aspects of the company's products, to successfully perform their duties; and obtaining such knowledge may be gained through experience rather than a four-year college degree in a specific program. The petitioner also notes that the individual in the position of production coordinator will assist the manager in developing sourcing strategies and buy plans, will negotiate prices with vendors and customers, identify trends, and have knowledge of international trade. These duties suggest that the production coordinator may also have duties similar to a buyer or purchasing manager. The *Handbook* notes:

[P]urchasing professionals consider price, quality, availability, reliability, and technical support when choosing suppliers and merchandise. They try to get the best deal for their company, meaning the highest quality goods and services at the lowest possible cost to their companies. In order to accomplish these tasks successfully, purchasing managers, buyers, and purchasing agents study sales records and inventory levels of current stock, identify foreign and domestic suppliers, and keep abreast of changes affecting both the supply of, and demand for, needed products and materials.

The *Handbook* reports that production, planning or expediting clerks are entry-level positions and do not require more than a high school diploma and that there are a variety of avenues available to obtain a position as a purchasing manager, buyer, or purchasing agent and that a baccalaureate degree in a specific discipline is not listed as usually required. Although the AAO concedes that the production coordinator in this matter may have duties that require experience in the textile industry and more than a high school diploma, the record lacks evidence substantiating that the duties of the proffered position correspond to a position that requires a baccalaureate or higher degree or its equivalent as the normal minimum requirement for entry into the position. Upon review of the duties of the proffered position, the AAO cannot conclude that the proffered position requires the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's or higher degree in a specific specialty.

Moreover, as the AAO has long determined, a generic four-year degree does not qualify a job as a specialty occupation. When a job, like that of an industrial product manager, a purchasing manager or buyer, or a clerical position in the textile industry, can be performed by a range of degrees or a degree of generalized title, without further specification, the position does not qualify as a specialty occupation. See *Matter of Michael Hertz*

Associates, 19 I&N Dec. 558 (Comm. 1988). To prove that a job requires the theoretical and practical application of a body of specialized knowledge as required by Section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study. CIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(A)(1) to require a degree in a specific specialty that is directly related to the proffered position. The petitioner has failed to establish that a baccalaureate or higher degree or its equivalent in a specific specialty is the normal minimum requirement for entry into the position of a production coordinator as described herein. Accordingly, the petitioner has not established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The AAO now turns to a consideration of the proffered position pursuant to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), whether a degree requirement is common to the industry in parallel positions among similar organizations or that a particular position is so complex or unique that only an individual with a degree can perform the duties associated with the position. Factors often considered by CIS when determining the industry standard include: whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D.Minn. 1999)(quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

In this matter, the petitioner has submitted seven job announcements for positions titled production coordinator or product manager. Two of the job announcements indicated a desire to hire an individual with a bachelor's degree in business, a general degree; two of the job announcements indicated the employer required the successful candidate to have a bachelor's degree in business or economics or marketing; and two job announcements indicated the employer preferred the successful candidate to have a bachelor's degree with no specified discipline or the equivalent in experience. The seventh job announcement submitted on appeal listed a bachelor's degree in fashion merchandising or textile apparel but did not state whether such a degree was preferred or required.

The AAO observes first, that the job advertisements do not require the successful candidate to have attained a baccalaureate degree in a specific discipline, thus the positions cannot be considered specialty occupations. Requiring a bachelor's degree in a generalized discipline, such as business, fails to provide the specificity necessary to establish a position as a specialty occupation. See *Matter of Michael Hertz Associates*, 19 I&N Dec. at 558. Second, while the petitioner claims that advertisements by three of the six companies submitted in response to the director's RFE are by companies with four to ten employees and an annual income between \$500,000 and six million, and are thus similar to the petitioner in size and annual income, the petitioner does not substantiate the claim in the record. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Third, the companies in the three other advertisements submitted in response to the director's RFE are either substantially different than the petitioner or the ultimate employer is not disclosed; thus these three advertisements have little probative value. Lastly, the petitioner has not established that the seventh job advertisement submitted on appeal is from a company similar to the petitioner. The record does not contain sufficient evidence to establish that a degree requirement in a specific discipline is common to the industry in parallel positions among similar organizations.

In the alternative, the petitioner may submit evidence to establish that the duties of the position are so complex or unique that only an individual with a degree in a specific specialty can perform the duties associated with the position. The AAO observes that the petitioner has indicated that the beneficiary's college-level courses will assist her in carrying out the duties of the proffered position; however, the test to establish a position as a specialty occupation is not the skill set or education of a proposed beneficiary, but whether the position itself requires the theoretical and practical application of a body of highly specialized knowledge obtained by at least baccalaureate-level knowledge in a specialized area. The petitioner does not explain or clarify which of the duties, if any, of the proffered position are complex or unique so that the duties are distinguishable from similar but non-degreed employment. The petitioner has failed to establish the proffered position as a specialty occupation under either prong of the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

Nor is there evidence in the record to establish the third criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A): that the petitioner normally requires a degree or its equivalent for the position. The petitioner acknowledges that it has not hired a production coordinator previously, noting that the petitioner's president performed the duties in the past. Although the petitioner's president has a master's degree in business administration, the record does not document that the duties of the proffered position require a baccalaureate or higher level of education to perform them. The AAO notes that while a petitioner may believe that a proffered position requires a degree, that opinion cannot establish the position as a specialty occupation. Were CIS limited solely to reviewing a petitioner's self-imposed requirements, then any individual with a bachelor's degree could be brought to the United States to perform any occupation as long as the employer required the individual to have a baccalaureate or higher degree. *See Defensor v. Meissner*, 201 F. 3d at 384. Accordingly, the petitioner has failed to establish the referenced criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) based on its normal hiring practices.

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires that the petitioner establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree. The petitioner has not provided sufficient information in relation to its business to show that the duties of the proffered position correlate to a position that is so specialized or complex that only an individual with a degree in a specific specialty can perform them. The duties of the position described encompass routine clerical duties and the duties of purchasing manager/buyer. The record does not contain explanations or clarifying data sufficient to elevate the position to one that is so specialized or complex, that the knowledge to perform these additional tasks requires the attainment of a baccalaureate or higher degree in a specific specialty.

The beneficiary's actual duties involve the routine tasks of sending purchase orders to the manufacturer, updating the overseas factories with customers' change requirements, monitoring and tracking the overseas production and ensuring adherence to deadlines, updating customers, troubleshooting issues, sourcing fabric and production overseas, ensuring quality of goods, coordinating the development of new products, maintaining sample libraries, negotiating costs, prioritizing, and interacting with management, the sales force, internal staff, and overseas factories. The petitioner has not established that these tasks are tasks that require the application of specialized or complex knowledge associated with the attainment of a baccalaureate degree

or higher degree in a specific discipline. In this matter, the petitioner has not established the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

Based on the record of proceeding, the AAO determines that the petitioner has not established that the proffered position is a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed. The petition is denied.