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U.S. Citizenship  
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FILE: EAC 03 049 55227 Office: VERMONT SERVICE CENTER

Date: FEB 15 2005

IN RE: Petitioner:  
Beneficiary:



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 materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner is a provider of home theater services. It seeks to employ the beneficiary as its director and to classify him as a nonimmigrant worker 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 on the ground that record did not establish that the proffered position is a specialty occupation. The director indicated in particular that the petitioner failed to establish that its industry required a baccalaureate degree as a minimum educational requirement for the proffered position.

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.

As provided in 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 criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

On appeal counsel asserted that the director erred in denying the petition on the ground that the petitioner had failed to establish that a baccalaureate degree was the minimum industry requirement for the proffered position because that is only one of four alternative criteria under 8 C.F.R. § 214.2(h)(4)(iii)(A)

to qualify the position as a specialty occupation. Counsel requested 90 days in which to submit a brief and/or evidence in support of the appeal. The appeal was filed on March 11, 2004, but no brief was filed in the next 90 days. Nor has any brief been filed up to the date of the instant decision, nearly a year after the filing of the appeal.

As specified in 8 C.F.R. § 103.3(a)(1)(v), “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.” The petitioner in this case has not identified any erroneous conclusion of law or statement of fact in the director’s decision. Though counsel implies that the director should have found the proffered position qualified as a specialty occupation under one or more of the alternative criteria set forth in 8 C.F.R. § 214.2(h)(4)(iii)(A), no specific criterion for such a finding was identified in the appeal or at any time since. Accordingly, the appeal must be summarily dismissed.

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