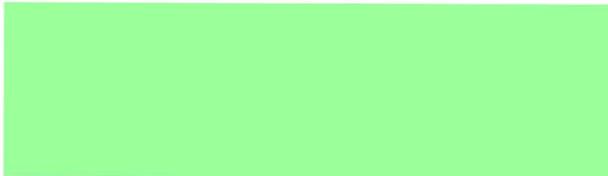
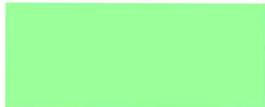


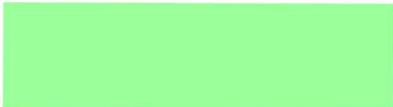
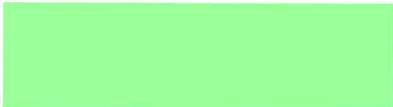


U.S. Citizenship  
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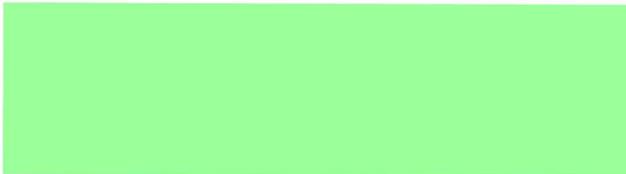


DATE: **MAR 04 2013** OFFICE: VERMONT SERVICE CENTER FILE: 

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:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

*for Michael T. Kelly*  
Ron Rosenberg

Acting Chief, Administrative Appeals Office

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

The petitioner is a fashion/clothing design and import company<sup>1</sup>, and was approved to classify the beneficiary 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) and to employ the beneficiary part-time as a designer. USCIS issued a Notice of Intent to Revoke the Petition for a Nonimmigrant Worker (Form I-129) based on the findings of an administrative site visit. The petitioner was granted the opportunity to submit any evidence to overcome the grounds of revocation. Ultimately, the director revoked the petition, finding that the petitioner had failed to establish that it was employing the beneficiary in a specialty occupation.

Counsel for the petitioner submitted a timely Form I-290B, Notice of Appeal or Motion, on May 7, 2012, and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is considered complete as currently constituted.

The director provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. Counsel for the petitioner's statement on Form I-290B states the following:

The Beneficiary is, indeed, working in a 'specialty occupation.' Unfortunately, upon information and belief, the Notice of Intent to Deny did not specifically request that the Petitioner provide sketches or other evidence of the Beneficiary's work; rather, it requested, 'proof[.]' The Petitioner, through their then-counsel, [REDACTED] submitted a letter detailing her work, but did not believe it was important to submit the Beneficiary's sketches or other similar evidence.

This Law Office was recently retained to help the Petitioner reinstate [the beneficiary's] H-1B visa. We are in the process of gather[ing] supporting documents and will submit same within 30 days.

Counsel's aforementioned statement on Form I-290B does not specifically identify any errors on the part of the director and is therefore insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner.

An 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. 8 C.F.R. § 103.3(a)(1)(v). Counsel for the petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor

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<sup>1</sup> On the Form I-129, the petitioner stated that it's in the business of "design/make [sic] and whol[e]sale dresses, belts, scarves, and other fashion/clothing accessories."

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counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding 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 summarily dismissed.