

In the Matter of LOCKHEED AIRCRAFT CORPORATION and ASSOCIATED
ENGINEERS AND TECHNICIANS (INDEPENDENT)

Case No. 21-R-1992.—Decided November 5, 1943

O'Melveny & Myers, by *Mr. Homer I. Mitchell*, of Los Angeles, Calif., for Lockheed.

Mr. Phalbrick McCoy, of Los Angeles, Calif., for the Associated.

Dr. Robert C. Burt, of Pasadena, Calif., for Burbank.

Mr. Leland G. Hewitt, of Burbank, Calif., for the Machinists.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by Associated Engineers and Technicians, herein called the Associated, alleging that a question affecting commerce had arisen concerning the representation of employees of Lockheed Aircraft Corporation, Burbank, California, herein called Lockheed, the National Labor Relations Board provided for an appropriate hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Los Angeles, California, on October 5, 1943. Lockheed, the Associated, Burbank Chapter, Engineers and Architects Association, herein called Burbank, and International Association of Machinists, Local 1712, herein called the Machinists, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the close of the hearing, Lockheed moved to dismiss this proceeding on the ground that the unit set forth in the petition was inappropriate for bargaining purposes. For reasons which appear in Section III, below, the motion is granted. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Lockheed Aircraft Corporation has its principal place of business at Burbank, California. Vega Aircraft Corporation, herein called Vega, is a wholly-owned subsidiary of Lockheed. Lockheed and Vega are both engaged in the manufacture and sale of aeroplanes and parts and each corporation owns and operates eight plants within the State. During the fiscal year ending June 30, 1941, Lockheed's purchases of raw materials exceeded 50 million dollars in value, approximately 85 percent of which was shipped to Lockheed's plants from points outside California. During the same period, total sales of Lockheed and Vega exceeded 85 million dollars, more than 90 percent of which represented products sold and shipped to points outside California. The volume of business of Lockheed and Vega has greatly increased since 1941.

Lockheed admits that it is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Associated Engineers and Technicians is an independent labor organization, admitting to membership employees of Lockheed.

Burbank Chapter, Engineers and Architects Association, is an unaffiliated labor organization, admitting to membership employees of Lockheed.

International Association of Machinists, Local 1712, is a labor organization affiliated with the American Federation of Labor,¹ admitting to membership employees of Lockheed.

III. THE ALLEGED APPROPRIATE UNIT

The Associated contends that engineers employed by Lockheed in the design department constitute a separate bargaining unit. Burbank contends that the restricted unit proposed by the Associated is an appropriate bargaining unit, but takes no position with respect to certain categories of engineers in the department which the petitioner would include in the unit. The Machinists and Lockheed contend that the only appropriate bargaining unit for Lockheed's engineers includes engineers both of Lockheed and of Vega on a broad basis coincident with their employment functions.

¹ At the time of the hearing the Machinists was an unaffiliated labor organization. We take note that the Machinists has since affiliated with the American Federation of Labor.

Lockheed and Vega are separate corporate entities with interlocking officers and directors. They are both engaged in manufacturing aeroplanes and parts at Burbank, California. Vega is a wholly owned subsidiary of Lockheed.² The 2 companies operate, under one general employment policy, approximately 16 plants and divisions. The companies have a common comptroller, a common credit and finance department, a common sales and service department, and a common industrial relations department. All employees are hired through a central hiring department. Common policies govern the hiring, promotion, and training of employees, general working rules, and labor policies in both companies. Each company employs persons for similar kinds of work with some minor differences in job classifications. Vega employs about one-third less employees than Lockheed. The principal plants of Vega and Lockheed are about 1 mile distant. Production at Vega was begun with a nucleus of employees transferred from Lockheed for the purpose. Employees are freely lent by one company to the other and employees are permanently transferred from one to the other. Such transfers do not affect the employees' seniority rights in employment with the companies.

Lockheed divides its engineers among five departments known as design, plant, manufacturing, tool, and outside tool engineering, respectively. Engineers at Vega are classified in departments known as the design, plant, manufacturing, and tool departments. There is no outside tool department at Vega. Engineering employees of the two companies are of the same general caliber, education, and training. Engineers in the several departments at each plant coordinate their work. Design and tool engineers at Lockheed necessarily collaborate, as their work projects are closely allied. Manufacturing engineers necessarily work in close coordination with design and tool engineers and must approve their work. Design engineers employed by Lockheed are not all working at Burbank.

The unit proposed by the petitioner is not a departmental unit since employees working with design engineers but doing artistic, rather than engineering, work are excluded from coverage. We find no clear definitive line in training, skill, and work between design engineers and tool engineers at Lockheed, which would justify a division along the craft line suggested by the petitioner. The Associated, Burbank, and the Machinists are all engaged in organizing the engineers of Lockheed and of Vega on a broad basis. The peti-

² We take note that on October 20, 1943, the parties entered into a stipulation that on October 19, 1943, Lockheed announced to employees of Lockheed and Vega that necessary legal steps were underway to dissolve Vega and to cause Lockheed to acquire all assets, and to assume all liabilities, of Vega; that such transaction would be concluded on or about November 30, 1943; and that the Board might consider these facts in resolving the issues in the instant proceeding. The stipulation is hereby made, and is, part of the record in the instant proceeding.

tioner does not contend that the employees for whom it has filed its petition herein necessarily constitute a permanent or stable bargaining unit. It would establish the present unit on a tentative basis on the scope of its organization among Lockheed's engineers. The record indicates that the petitioner has only recently begun its efforts to organize Lockheed's employees. It does not appear that organization within the unit proposed by the Machinists and Lockheed, which employment conditions clearly indicate as appropriate, is not entirely feasible. Since 1937 the hourly paid employees of Lockheed and Vega have bargained and contracted with their employers as one bargaining unit through an affiliate of the Machinists as their bargaining representative. All monthly employees, including the engineers covered by the instant petition, have been excluded from these contracts. In view of the bargaining pattern establishing among the hourly paid employees of Lockheed and Vega,³ and for reasons set forth above, we find that the bargaining unit proposed by the Associated is not an appropriate bargaining unit. For these reasons, we shall dismiss the petition filed herein.

ORDER

Upon the basis of the foregoing findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Lockheed Aircraft Corporation, Burbank, California, filed by Associated Engineers and Technicians be, and it hereby is, dismissed.

³ *Matter of The Murray Corporation of America*, 45 N. L. R. B. 855.