

In the Matter of UNIVERSAL TELEVISION SYSTEM and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, AFFILIATED WITH THE C. I. O.

*Case No. 17-R-764.—Decided January 13, 1944*

*Mr. Vernon B. Kassebaum*, of Kansas City, Mo., for the Company.  
*Miss Jean Zier*, of Kansas City, Mo., and *Mr. R. B. Logsdon*, of St. Louis, Mo., for the United.

*Messrs. John J. Manning* and *A. F. Wright*, of Kansas City, Mo., and *Mr. J. O. Gangwes*, of Kansas City, Kans., for the I. B. E. W.

*Mr. Leon Novak*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition and amended petition duly filed by United Electrical, Radio and Machine Workers of America, Affiliated with the C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning Universal Television System,<sup>1</sup> herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Margaret L. Fassig, Trial Examiner. Said hearing was held at Kansas City, Missouri, on November 23, 24, and 29, 1943. The Company, the United, and International Brotherhood of Electrical Workers, Local Union B-1328, affiliated with the A. F. of L., herein called the I. B. E. W., appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>2</sup> All parties were afforded an opportunity to file briefs with the Board.

<sup>1</sup>In its petition the United gave the name of the Company as Universal Television System, Inc. This was corrected at the hearing by agreement of the parties.

<sup>2</sup>We are hereby also affirming the Trial Examiner's ruling denying the application of the I. B. E. W. at the hearing, for a subpoena *duces tecum* of the Company's records with regard to a prior proceeding before the National War Labor Board. We are of the opinion that these records are not relevant to the issue of whether assistant supervisors and instructors employed by the Company possess supervisory authority, which issue was the alleged basis for the aforesaid application

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Clarence E. Salzer, Dixie Salzer, S. Q. Noel, Alma T. Noel, David W. Fritzlen, and Josephine Fritzlen, constitute a copartnership doing business as Universal Television System. The Company operates a plant at Kansas City, Missouri, where it is engaged in the manufacture of quartz crystals for radio frequency control. During the fiscal year ending September 30, 1943, the Company purchased raw materials, consisting chiefly of raw quartz, valued at approximately \$75,000, all of which were shipped to the Company's plant from points outside the State of Missouri. During the same period, the sales of the Company amounted to approximately \$750,000, of which approximately 100 percent was shipped to points outside the State of Missouri.

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

#### II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio and Machine Workers of America, Affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, Local Union B-1328, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated at the hearing that on or about October 29, 1943, the United notified the Company that it represented a majority of the Company's employees and requested recognition for bargaining purposes.<sup>3</sup> The Company informed the United that a similar claim had been made by the I. B. E. W. and that such recognition could not be granted unless and until the United was certified by the Board.

A statement of a Field Examiner for the Board introduced in evidence at the hearing, indicates that the United represents a substantial number of employees in the unit hereinafter found appropriate.<sup>4</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

<sup>3</sup>The parties also stipulated that a question concerning representation had arisen.

<sup>4</sup>The Field Examiner reported that the United submitted 87 designations, of which 80, all bearing apparently genuine original signatures, corresponded with names on the Company's pay roll of November 10, 1943, containing 205 names.

The Field Examiner reported that the I. B. E. W. submitted 68 designations of which 55, all bearing apparently genuine original signatures, correspond with names on the Company's pay roll of November 10, 1943.

## IV. THE APPROPRIATE UNIT

The United and the I. B. E. W. are in agreement that the appropriate unit shall consist of all the production and maintenance employees of the Company, excluding time-study employees, guards, executives, administrative, and clerical employees. The Company takes no position as to the appropriateness of such a unit. There is dispute only as to two categories: assistant supervisors<sup>5</sup> and instructors.

*Assistant Supervisors:* The Company and the United contend that assistant supervisors should be excluded from the appropriate unit. The I. B. E. W. seeks to include them, contending that assistant supervisors are older employees of the Company who are chiefly engaged in production, but who were given their titles in order to justify the Company in granting them wage increases. The record does not support the contention of the I. B. E. W. Assistant supervisors are considered by the Company to be representatives of management. They do not give more than 20 percent of their working time to actual production. Their pay is higher than that of production employees although there is an occasional overlapping in wages between lowest paid assistant supervisors and highest paid production employees. The assistant supervisors make work assignments to production employees and in the absence of the supervisors take charge of the departments in which they are employed. While it does not appear that the Company has, by instructions to the assistant supervisors, clearly defined their authority with relation to recommending disciplinary action, it is evident that the Company expects them to exercise such authority, and that, on occasion, they have done so. We shall exclude assistant supervisors from the unit.

*Instructors:* The Company and the United seek to exclude instructors from the appropriate unit, contending that they are supervisory employees. As in the case of assistant supervisors, the I. B. E. W. argues that these employees do not possess supervisory authority but are production employees to whom the Company has given the title of instructors in order to justify the granting of a wage increase to them. The record does not support this contention. Instructors, for the most part, spend less than 50 percent of their time in production operations. They are charged with the duty of overseeing the work of the em-

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<sup>5</sup> In its amended petition herein the United sought to exclude "lead ladies" from the proposed unit. The Company stated, at the hearing, that at its plant this term was synonymous with the term "supervisor." Thereafter although the terms "lead ladies" and "leadmen" were repeatedly employed by the parties, it is evident, from the record, that it was their understanding that these terms could be used interchangeably with the term "assistant supervisor." No claim was made by any party that "leadmen" or "lead ladies" were additional categories to be considered by the Board for the purposes of this Decision. We shall confine ourselves to the use of the term "Supervisor" or "Assistant Supervisor."

ployees and giving them instructions. They have the authority to reprimand employees under their instruction and to make recommendations for their transfer or termination if unsatisfactory. Grievances of the production employees may be taken up with instructors as well as with assistant supervisors. Instructors receive a higher rate of pay than do production employees, their wages being on the same level as that of assistant supervisors. Instructors, like assistant supervisors also take the place of supervisors in the latter's absence. We shall exclude instructors from the unit.

We find that all production and maintenance employees of the Company, exclusive of time-study employees, guards, executive, administrative, and clerical employees, supervisors, assistant supervisors, instructors, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction. The United requests that it be designated on the ballot as The United Electrical, Radio and Machine Workers of America, C. I. O. The I. B. E. W. requests that it be designated on the ballot as Local Union B-1328, International Brotherhood of Electrical Workers, affiliated with the A. F. L. The requests of the organizations are hereby granted.

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9; of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Universal Television System, Kansas City, Missouri, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventeenth Region, acting in this matter as agent for the National Labor Relations Board, and

subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by The United Electrical, Radio and Machine Workers of America, C. I. O., or by Local Union B-1328, International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by **neither.**