

In the Matter of RADIO CORPORATION OF AMERICA, RCA VICTOR DIVISION  
and FEDERATION OF ARCHITECTS, ENGINEERS, CHEMISTS AND TECH-  
NICIANS, C. I. O.

*Case No. 4-R-1429.—Decided August 30, 1944*

*Mr. J. M. Clifford*, of Camden, N. J., for the Company.  
*Messrs. Saul C. Waldbaum and Theodore Vincent*, of Philadelphia,  
Pa., for the Union.

*Mr. F. Morse Archer, Jr.*, of Camden, N. J., for the Committee.

*Mr. Sidney Grossman*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by the Federation of Architects, Engineers, Chemists and Technicians, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Radio Corporation of America, RCA Victor Division, herein called the Company, the National Labor-Relations Board provided for an appropriate hearing upon due notice before Eugene N. Purver, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on July 31, 1944. At the commencement of the hearing the Trial Examiner granted a motion of the Committee for Professional Personnel of the RCA, herein called the Committee, to intervene.<sup>1</sup> All parties appeared, participated, and 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. All parties were afforded an opportunity to file briefs with the Board.

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

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<sup>1</sup> The Committee admittedly is not a labor organization within the meaning of the Act; it appeared solely for the purpose of assisting the Board in determining the appropriate unit, and does not desire to participate in any election directed herein.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Radio Corporation of America is a Delaware corporation with its principal office at New York City. The Company, through its RCA Victor Division, operates plants located in four States. This proceeding concerns employees of the Company working in its Camden, New Jersey, plant, where the Company is engaged in the manufacture of radio, radar, and electronic equipment. Annually, the Company uses raw materials and component parts at its Camden plant of a value in excess of \$40,000,000, of which approximately 70 percent is received at such plant from points outside the State of New Jersey. The Company annually produces finished products at this plant of a value in excess of \$100,000,000, of which approximately 90 percent is shipped to points outside the State of New Jersey.

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

## II. THE ORGANIZATION INVOLVED

Federation of Architects, Engineers, Chemists and Technicians, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the employees of the Company until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>2</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>2</sup> The Field Examiner reported that the Union submitted 291 authorization cards bearing the names of persons appearing on the Company's pay roll of May 31, 1944. There are approximately 847 employees in the unit alleged by the Union to be appropriate, of whom 320 represent design and development engineers; 57 represent time-study engineers, Jr., and Sr., whom all the parties would exclude; and 470 represent all other salaried technical employees. Of the 291 cards submitted by the Union, 65 bear the names of design and development engineers, and 226 bear the names of the remaining salaried technical employees other than time-study engineers. Two hundred and eighty-two cards bore dates between February and July 1944, and 9 were undated.

The Committee placed in evidence a petition containing approximately 213 signatures of design and development engineers who thereby designated the Committee to represent their interests.

## IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

The Union contends that the appropriate unit should consist of design and development engineers and engineering students; draftsmen, process analysts, factory engineers, project engineers, material specialists, production control engineers, and all other salaried technical employees, including photographers, but excluding all non-technical employees, clerks, time-study engineers, staff assistants, and all categories of employees with the rank of working group leader or above, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. The Company and the Committee are opposed to a unit which would include both the design and development engineers and engineering students, hereinafter referred to as professional engineers,<sup>3</sup> and the remaining technical employees, and maintain that each should be embraced within a separate appropriate unit.

The record discloses that both the professional engineers and the remaining technical employees are subject to the same plans with respect to salary, working hours, vacation, insurance, sick leave, and hospitalization. Also, that the jobs of both groups are technical in nature and that the work of one group complements that of the other. The record also discloses, however, that the professional engineers do essentially creative work both in research and development, which is, in turn, carried out and prepared for production by the remaining technical employees. Their work is of such character that the results accomplished cannot be standardized in relation to a given period of time or in terms of quality or production; whereas the work of the remaining technical employees is more susceptible to such standardization. Also, a higher percentage of the professional engineers possesses a more extensive education and training than the other technical employees.

In view of the foregoing, we find that the professional engineers and the remaining technical employees might function as separate bargaining units, or might appropriately be included in a unit embracing both groups. Accordingly, we are of the opinion that the desires of the employees themselves should be a factor in our determination of the type of unit through which they shall bargain.<sup>4</sup> We shall, therefore, make no present determination of the appropriate unit or units as affecting the Camden, New Jersey, plant, but shall reserve such

<sup>3</sup> Under the category of professional engineers and student engineers, are included electrical or mechanical engineers, chemists, and physicists

<sup>4</sup> See *Matter of General Electric Company*, 57 N. L. R. B. 81, *Matter of Shell Development Company, Inc.*, 38 N. L. R. B. 192

finding pending the result of the separate elections which we shall hereinafter direct. Upon the results of these elections will depend in part the scope of the bargaining unit or units.

There remains for consideration a dispute between the parties with regard to the following categories:

*Working group leaders.* The Company and the Union seek the exclusion of working group leaders. The Committee favors their inclusion if the Board finds that the professional engineers constitute an appropriate unit. The record discloses that these employees have the authority to recommend the hire, discharge, transfer, promotion, and wage increase of employees under their supervision. We find that working group leaders fall within our usual definition of supervisory employees; we shall exclude them.

*Cost estimators.* The Company would exclude cost estimators from any unit which the Board may find to be appropriate on the ground that they are confidential employees in that they prepare estimates from complex electrical equipment or components thereof to determine the manufacturing and development costs. The record does not disclose, however, that the cost estimators possess any advance information relating to matters associated with labor relations; we shall therefore include them.

We shall direct that separate elections by secret ballot be held among employees of the Company within each of the groups listed below who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction. There shall be excluded from each of such voting groups, in addition to others specifically mentioned herein, all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. The respective voting groups shall be as follows:

(1) Among the design and development engineers and engineering students, in the Camden, New Jersey, plant, excluding all categories of employees with the rank of working group leaders and above;

(2) Among the remaining technical employees in the engineering and productive departments of the Company at its Camden, New Jersey, plant, including engineering aides, photographers, technical writers and editors, drafting illustrators, drafting checkers, drafting designers, drafting detailers, tracers, laboratory assistants, process engineers, manufacturing problem analysts, manufacturing development engineers, check-tool designers, drafting plant lay-out and construction engineers, and cost estimators, but excluding all non-technical employees, clerks, time-study engineers, and staff assistants.

## DIRECTION OF ELECTIONS

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Radio Corporation of America, RCA Victor Division, Camden, New Jersey, separate elections by secret ballot shall be conducted as early as possible but not later than thirty (30) days from the date of this Direction of Elections, under the direction and supervision of the Regional Director for the Fourth 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 groups referred to 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 any employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections,\* to determine whether or not employees in the groups described in Section IV, above, desire to be represented by International Federation of Architects, Engineers, Chemists and Technicians, Chapter 41, C. I. O., for the purposes of collective bargaining.<sup>5</sup>

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Elections.

<sup>5</sup> The Union's request to appear on the ballot as designated above is hereby granted.