

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION, EMPLOYER  
and PATTERN MAKERS LEAGUE OF NORTH AMERICA, PETITIONER

*Case No. 8-R-2101.—Decided December 22, 1947*

*Mr. Job Taylor*, of Pittsburgh, Pa., and *Messrs. D. E. Jenkins*  
and *I. M. Dinger*, both of Cleveland, Ohio for the Employer.

*Mr. George Q. Lynch*, of Washington, D. C., and *Mr. Charles D.*  
*Madigan*, of Cleveland, Ohio, for the Petitioner.

*Mr. Seymour Linfield*, of New York City, and *Mr. Herbert Hirsch-*  
*berg*, of Cleveland, Ohio, for the Intervenor.

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, bearing in this case was held at Cleve-  
land, Ohio, on August 13, 1946, before George F. Hayes, hearing  
officer. The hearing officer's rulings made at the hearing are free  
from prejudicial error and are hereby affirmed. The Board heard  
oral argument at Washington, D. C., on April 17, 1947.

Upon the entire record in the case, the National Labor Relations  
Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Westinghouse Electric Corporation, a Pennsylvania corporation, is  
engaged in the manufacture of electrical products at its several plants  
throughout the United States. The only plant involved in this pro-  
ceeding is located at Cleveland, Ohio.

During the year preceding the date of the hearing herein, the  
Employer purchased raw materials for use at its Cleveland plant  
valued at more than \$1,000,000, of which more than 50 percent repre-  
sented shipments from points outside the State of Ohio. During the  
same period, the Employer sold finished products of its Cleveland  
plant valued at more than \$1,000,000, of which more than 50 percent  
represented shipments to points outside the State.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer. Local 777, United Electrical, Radio and Machine Workers of America, herein called the Intervenor, is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

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

The Petitioner seeks a unit composed of all wood and metal pattern makers and apprentices of the Employer at its Cleveland plant, excluding supervisors. The Intervenor contends that collective bargaining history on a plant-wide production and maintenance basis precludes a finding at this time that the unit sought by the Petitioner is appropriate. The Employer takes no position with respect to the unit issue.

Before 1940, the employees at the Employer's Cleveland plant bargained through an employee representation plan. In 1939, however, Employees Federation of Westinghouse Electric and Manufacturing Company, Lighting Division, an unaffiliated labor organization, herein called the Federation, filed a petition with the Board requesting the establishment of a plant-wide production and maintenance unit. At approximately the same time, Metal Polishers, Buffers, Platers, Spinners & Helpers International Union, Local No. 3, A. F. of L., herein called the Metal Polishers, filed a petition requesting the establishment of a unit confined to the Employer's metal polishers, buffers, spinners, platers, and helpers. The Board consolidated the two cases and on March 27, 1940, directed that elections be held in the following groups: (1) all production, maintenance and service employees, (2) all clerical employees, and (3) all metal polishers, buffers, spinners,

platers and helpers.<sup>1</sup> The Federation won the elections in the first two groups and the Metal Polishers won the election in the third group. Thereafter, both labor organizations were certified for their respective units, and entered into collective bargaining agreements with the Employer.

Late in 1943, the Intervenor herein filed a petition for certification as the bargaining representative of the Employer's production and maintenance employees, excluding the employees represented by the Metal Polishers. The Board, on December 4, 1943, directed an election among these employees, specifically including pattern makers.<sup>2</sup> The Intervenor won the election and was certified by the Board on January 3, 1944. The Petitioner herein did not participate in either the 1940 or 1943 Board proceedings.<sup>3</sup>

On April 1, 1944, the Employer and the Intervenor entered into a maintenance-of-membership contract which remained in effect until March 31, 1946. The Intervenor called a strike at the Cleveland plant on January 15, 1946, which was not terminated until the parties executed a new contract on May 9, 1946, which contract was in effect at the time of the hearing herein.<sup>4</sup> In short, the Employer's pattern makers have been represented together with its production and maintenance employees, other than those represented by the Metal Polishers, since 1940.

The pattern makers herein constitute a highly skilled, well recognized craft group,<sup>5</sup> employed in an industry in which craft units of pattern makers are frequently encountered.<sup>6</sup> Under these circumstances, we believe that the pattern makers involved in this proceeding also may, if they so desire, constitute a separate unit, notwithstanding the Board's previous more inclusive unit determinations.<sup>7</sup>

<sup>1</sup> *Matter of Westinghouse Electric & Manufacturing Company, Lighting Division*, 21 N L R B 1150

<sup>2</sup> *Matter of Westinghouse Electric & Manufacturing Company, Lighting Division*, 53 N L R B 1073

<sup>3</sup> The record reveals that, while the Petitioner had many members among the Employer's pattern makers in 1919, it never secured a contract from the Employer. The record is not clear concerning the number of members the Petitioner had at the plant immediately before and during the time that the Intervenor was certified.

<sup>4</sup> Neither the Employer nor the Intervenor claims that the 1946 contract is a bar to this proceeding.

<sup>5</sup> See *Matter of General Electric Company (Lynn River Works and Everett Plant)*, 58 N L R B 57; *Matter of John Deere Dubuque Tractor Company*, 72 N L R B 656; *Matter of Kaiser Frazer Corporation*, 73 N L R B 109; *Matter of Combustion Engineering Company, Inc.*, 74 N L R B 556; *Matter of Kelsey-Hayes Wheel Company*, 74 N L R B 603

<sup>6</sup> The Board has found a pattern makers unit appropriate in another of the Employer's plants. *Matter of Westinghouse Electric Corporation (East-Springfield Works)*, 60 N L R B 215

<sup>7</sup> Section 9 (b) (2) of the amended Act provides that the Board shall not "decide that any craft unit is inappropriate . . . on the ground that a different unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft unit vote against separate representation."

However, the Board will not make any unit determination until it has first ascertained the desires of the employees involved. We shall direct that an election be held among all wood and metal pattern makers and apprentices employed by the Employer at its Cleveland, Ohio, plant, excluding supervisors as defined in the Act. If, in this election, the employees select the Petitioner, they will be taken to have indicated their desire to constitute a separate bargaining unit. We shall not place the Intervenor's name on the ballot, inasmuch as it has not complied with Section 9 (f) and (h) of the Act, as amended.<sup>8</sup>

### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Westinghouse Electric Corporation, Cleveland, Ohio, 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 Eighth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the voting group described 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, 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 or not they desire to be represented by Pattern Makers League of North America for the purposes of collective bargaining.

<sup>8</sup> See *Matter of Rite-Form Corset Company*, 75 N. L. R. B. 174