

In the Matter of LIBRASCOPE, INCORPORATED, EMPLOYER-PETITIONER
and INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT LODGE
156, ON BEHALF OF LOCAL LODGE 1600, UNION

Case No 21-RM-142.—Decided September 11, 1950

DECISION AND ORDER

Upon a petition duly filed, a hearing was held before Eugene M. Purver, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Styles].

Upon the entire record in this case the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The Union, a labor organization, claims to represent certain employees of the Employer.
3. No question affecting commerce exists concerning the representation of the employees involved within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Employer is a manufacturer of precision instruments. It has an engineering staff to design and create new instruments and a non-engineering work force which includes, among others, production machinists, experimental machinists, and mechanical laboratory technicians. All employees in these three job categories have had machinist training, but their work differs. The production machinists are engaged in mass production of the Employer's finished products. The experimental machinists fabricate and assemble the prototypes of machines to be manufactured on the production line or manufacture machines for small run production. Both the production machinists and the experimental machinists work from detailed blueprints. Both groups are responsible to the production manager.

The mechanical laboratory technicians, of whom there are two in the nonsupervisory category, work in close association with the engineers helping to translate theoretical design ideas into practical

form. A considerable part of their work involves the designing, creating, and testing of components. They work not from blueprints, but from ideas of the engineers expressed orally or in rough sketches. The technicians work in a separate room under their own supervisor who is responsible to the chief engineer. They are paid a salary, unlike the production and experimental machinists who are hourly paid.

The Union has represented the Employer's production and maintenance employees for a number of years. The most recent contract signed on August 23, 1948, and renewed in 1949 for another year to expire on August 23, 1950, lists wage rates for production and experimental machinists, but contains no rate for mechanical laboratory technicians. This omission appears to have been deliberate. The position of mechanical laboratory technician was created by the Employer in 1947. In the negotiations which led to the signing of the 1948 agreement, the Union brought up the matter of including the mechanical laboratory technicians in the contract. The Employer objected and the Union allowed the matter to drop. However, the contract contains the following clause:

In the event the jurisdiction of the union in regard to any new occupational classification is in question, the union and the company will reach a mutual agreement.

On February 21, 1950, the Union sent a letter to the Employer claiming, in substance, that the laboratory technicians were part of the existing production and maintenance unit, and asking the Employer to bargain for them. The Employer denied the claim and refused the request to bargain. Subsequently, the Union filed a grievance alleging that the Employer had violated its contract by unilaterally establishing the title of "mechanical laboratory technician" and attempting thereby to remove such classification from the appropriate bargaining unit. The Employer denied that the Union's claim was a proper subject for the grievance procedure and filed the present petition on March 23, 1950.

The Union denies that any question affecting commerce exists. It asserts that (a) the dispute is one over contract interpretation, (b) the contract is a bar, and (c) the mechanical laboratory technicians do not constitute a separate unit, but are part of the existing production and maintenance unit.

The work of the technicians differs from that of machinists; the former are expected to be much more creative. They also work in a separate room under their own supervisor who is responsible to the chief engineer; whereas machinists are ultimately supervised by the production manager. Technicians work with the engineers at

nonproduction tasks; machinists are engaged in production. Finally, the history of the 1948 negotiations shows plainly that the technicians were knowingly omitted from the coverage of the agreement. In view of this diversity of interests and the bargaining history, we find that the mechanical laboratory technicians are not included in the production and maintenance unit.¹

.. A question of representation may be brought to the Board's attention by the filing of an Employer's petition, but the question is raised only by an affirmative claim of a labor organization that it represents a majority of employees in an appropriate unit.² In the present case, the Union's claim has been that the laboratory technicians are part of its production and maintenance unit. We have found that they are not. Therefore, no further question of representation exists.³ We shall accordingly dismiss the petition.

ORDER

IT IS HEREBY ORDERED that the petition of the Employer filed herein be, and it hereby is, dismissed.

¹ Cf. *Delta Manufacturing Division, Rockwell Manufacturing Company*, 89 NLRB 1434.

² *Coca-Cola Bottling Co. of Walla Walla*, 80 NLRB 1063.

³ *Button Corporation of America*, 89 NLRB 967.