

In the Matter of ALTEC LANSING CORPORATION and INTERNATIONAL
ASSOCIATION OF MACHINISTS, IN BEHALF OF LODGE 311

Case No. 21-R-3105.—Decided April 12, 1946

Messrs. G. L. Carrington and A. A. Ward, of Hollywood, Calif., for the Company.

Messrs. E. R. White and Dale O. Reed, of Los Angeles, Calif., for the IAM.

Mr. Zeal Fairbanks, of Hollywood, Calif., for the IATSE (AFL).

Mr. John H. Wood, Jr., of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, in behalf of Lodge 311, herein called the IAM, alleging that a question affecting commerce had arisen concerning the representation of employees of Altec Lansing Corporation, of Hollywood, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. The hearing was held at Los Angeles, California, on January 9, 1946. The Company, the IAM, and the International Sound Technicians, Local 695, of the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada (AFL), herein called the IATSE, 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. 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

Altec Lansing Corporation is a Delaware corporation with its main office at Hollywood, California. It operates a factory and separate
67 N. L. R. B., No. 42.

assembly plant at Los Angeles, California, where it manufactures theatre loud-speakers and other sound producing equipment. During the 10 months ending October 31, 1945, it produced and sold products valued at approximately \$800,000, of which 85 percent was shipped outside the State of California. During the same period the Company purchased for use at its factory raw materials valued at approximately \$280,000, of which 50 percent was imported from outside the State.

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

II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, in behalf of Lodge 311, is a labor organization admitting to membership employees of the Company.

International Sound Technicians, Local 695, of the International Alliance of Stage Employees and Moving Picture Machine Operators of the United States and Canada is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On October 25, 1945, the IAM informed the Company that it represented a majority of the Company's employees and requested a bargaining conference. The Company replied that it had a contract with the IATSE which precluded recognition of the IAM. On October 26, 1945, the IAM filed its petition herein. On November 27, 1942, the Company and the IATSE entered into their first agreement covering the Company's production and maintenance employees whom the IAM now seeks to represent. Article I (b) of this agreement provides:

The term of this agreement shall be for a period of seven (7) years from the date hereof, subject, however, to the right of either party to terminate the agreement in all respects on any anniversary date of the agreement by service of written notice of termination upon the other not less than thirty (30) days prior to any such anniversary date. Either party may open negotiations to secure modification of the terms by like written notice to the other. This agreement may be amended or added to at any time with the written consent of both parties hereto.

With the exception of certain amendments and additions executed on September 29, 1943 and January 15, 1945, which did not affect the term of the 1942 contract, the agreement of the parties has continued without change. The IATSE now claims that the foregoing contract constitutes a bar to the instant proceedings.

Assuming, as IATSE contends, that the 1942 contract is effective for a single term of 7 years, it is clear that such contract cannot operate as a bar to a present determination of representatives.¹ Moreover, we interpret the duration clause set forth above as providing for annual agreements to be automatically renewed from year to year during the 7-year period, provided neither party gives notice of termination 30 days prior to any anniversary date. Inasmuch as the IAM notified the Company of its representation claim and filed its petition herein more than 30 days prior to the anniversary date of the contract, we find that it does not operate to bar the present proceedings.²

A statement of a Board agent, introduced into evidence at the hearing, indicates that the International Association of Machinists, in behalf of Lodge 311, represents a substantial number of employees in the unit hereinafter found to be appropriate.³

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.

IV. THE APPROPRIATE UNIT

We find, in accord with the agreement of the parties, that all production and maintenance employees of the Company at its Los Angeles plants, including guards,⁴ working foremen, and leadmen,⁵ but excluding office and clerical employees 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, 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 employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

¹ In the *Matter of The A. S. Abell Company*, 62 N. L. R. B. 1414; cf. *Matter of Cellulose Corporation*, 60 N. L. R. B. 172; and *Matter of Uxbridge Worsted Company, Inc., Andrews Mill*, 60 N. L. R. B. 1395.

² See *Matter of Mill B, Inc.*, 40 N. L. R. B. 346; *Matter of E. I. du Pont de Nemours and Co.*, 64 N. L. R. B. 1517.

³ The Field Examiner reported the IAM submitted 48 authorization cards bearing the names of 48 employees listed on the Company's pay roll during October 1945. There are approximately 117 employees in the appropriate unit.

⁴ The guards are not militarized.

⁵ The record shows that working foremen and leadmen do not have supervisory authority within the Board's customary definition thereof.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Altec Lansing Corporation, Hollywood, California, 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 Twenty-first 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 International Association of Machinists, in behalf of Lodge 311, or by the International Sound Technicians, Local 695, of the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada (AFL), for the purposes of collective bargaining, or by neither.