

outside the negotiations as summarized above showed unmistakably that Respondents at no time intended to reach an agreement with the Union but were intent on destroying it as the bargaining representative of the employees.¹

I therefore conclude and find that at all times on and after April 28, 1965, Respondents refused to bargain with the Union within the meaning of Section 8(a) (5) and (d) of the Act.

I conclude and find further that the strike which began on June 1, was caused and prolonged by Respondents' unfair labor practices as herein found.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. By interfering with, restraining, and coercing its employees in the exercise of rights guaranteed in Section 7 of the Act, Respondents collectively and severally engaged in unfair labor practices within the meaning of Section 8(a)(1).

2. All dental laboratory processing workers of Respondents, excluding office employees and nondental laboratory processing delivery employees, guards, and supervisors as defined in the Act constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

3. At all relevant times a majority of the employees in the foregoing unit have designated and selected the Union as their representative for the purposes of collective bargaining with Respondents and the Union was the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

4. By refusing to bargain with the Union on and after April 28, 1965, Respondents engaged in unfair labor practices proscribed by Section 8(a)(5) and (1) of the Act.

5. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondents collectively and severally engaged in certain unfair labor practices, I shall recommend that they cease and desist therefrom and that they take certain affirmative action of the type which is conventionally ordered in such cases as provided in the Recommended Order below and which I find necessary to remedy and to remove the effects of the unfair labor practices and to effectuate the policies of the Act. Because Respondents' extensive and flagrant unfair labor practices were designed to defeat the self-organization of their employees, and to destroy the Union as their collective-bargaining representative, I shall recommend a broad cease and desist order.

[Recommended Order omitted from publication.]

¹The stipulated facts concerning the number of employees who struck on June 1 (52 out of 70) plainly established the Union's continuing majority status. To support an asserted doubt of majority as of June 15, Respondents offered to prove that a substantial number of strikers crossed the picket line and returned to work after the strike began. Such facts were plainly irrelevant in view of (1) the Union's majority status when the strike began, (2) the finding herein of a refusal to bargain on and after April 28, and (3) Respondents' other unlawful conduct as found above.

General Electric Company and Schenectady Draftsmen's Association, Local 147, AFTE, Petitioner. *Case 3-UC-3. August 12, 1966*

DECISION AND ORDER

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before a
160 NLRB No. 42.

Hearing Officer of the National Labor Relations Board. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Thereafter, the Employer and the Union file briefs.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Fanning and Jenkins].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. This proceeding involves the Employer's Schenectady, New York, plant, where it is engaged in the manufacture of electrical appliances, equipment, and related products. Since July 6, 1943, the Petitioner has been the certified bargaining representative of the following unit.

All draftsmen, including senior and junior designers, seniors and junior detailers, and tracers, excluding foremen, supervisory officials and tool designers who do not work exclusively at a drawing board, at the Schenectady works of the Company.

On November 3, 1965, the Petitioner filed a petition seeking clarification of the above unit to include engineering designers and technical visualizer. The Petitioner contends that the work of the engineering designers and the technical visualizer is no different from work currently being performed by unit employees.

The engineering designers were included in the unit and participated in the election that resulted in the 1943 certificate. In 1952, the engineering designers sought to withdraw from the unit. On April 16, 1953, the Union and the Employer signed a "Memorandum of Agreement" in which it was agreed that the bargaining unit "does not include employees of said Works of the Company who are classified as Engineering Designers." The Union has not since then represented these employees, although in January 1965 it filed a grievance claiming that a named engineering designer was doing unit work.

In 1957, the Employer established the classification of equipment visualizer, later changed to technical visualizer. W. R. Curtis, an illustrator included in the bargaining unit, was assigned the job. On November 15, 1957, Curtis resigned from the Union "due to advancement." In 1964 a shop steward asked Curtis to rejoin the Union. Curtis refused, asserting that his classification was not included in the bargaining unit. Shortly after this the Union filed a grievance asserting that Curtis was performing unit work. The grievance was later abandoned.

Engineering designers work in 7 of the 14 departments at Employer's Schenectady plant that employ unit employees. In general, they work alongside and under the same supervision as the unit designers. Although the work they do is similar to that of the designers, in general they are allowed more freedom in which to develop new ideas and are not required to follow prescribed drafting procedures. Further, the work they do is far more varied than that of the designers and in some cases involves work other than drafting. The engineering designers are paid on a scale different from that of unit employees with a substantially higher maximum and fringe benefits of non-unit employees.

Although the illustrators in the unit do work similar to that of the technical visualizer, a majority of their time is spent making conceptual drawings and doing freehand sketching. Further, the technical visualizer has his own office apart from the unit illustrators, is paid on a different wage scale, and receives fringe benefits not available to unit employees.

In view of the foregoing, and upon the entire record, including especially the 13-year interval during which the Union did not represent the engineering designers and the 9-year interval during which the technical visualizer was without union representation, we find that the issues herein raise a question concerning representation not properly to be resolved by a petition for clarification of unit. Accordingly, we shall dismiss the petition.

[The Board dismissed the petition to amend and clarify certification.]

Follett Corporation and Retail, Wholesale and Department Store Union (RWDSU), AFL-CIO, Petitioner. *Case 13-RC-10758.*
August 12, 1966

DECISION ON REVIEW AND CERTIFICATION OF REPRESENTATIVE

On April 15, 1966, the Regional Director for Region 13 issued a Supplemental Decision on Objections and Direction of Second Election in the above-entitled proceeding, in which he sustained the Employer's objections to conduct of the Petitioner affecting the election results,¹ set aside the election, and directed that a second

¹The tally of ballots for the election, which was held on March 16, 1966, showed that of approximately 118 eligible voters, 113 cast ballots, of which 68 were for and 39 against the Petitioner, 5 were challenged, and 1 was void. The challenges were insufficient in number to affect the results.