

In the Matter of CHRYSLER CORPORATION and SOCIETY OF DESIGNING
ENGINEERS

Case No. R-16

DIRECTION OF ELECTION

January 25, 1936

The Board having found that a question affecting commerce has arisen concerning the representation of the designing engineers (as described below) of the Chrysler Corporation, within the meaning of Section 9, subdivision (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, and that an election by secret ballot should be conducted, it is hereby

DIRECTED that, as part of the investigation authorized by the National Labor Relations Board in this case to ascertain representatives for collective bargaining between the designing engineers and the Company, an election by secret ballot shall be conducted within a period of ten days from the date of this direction of election under the direction and supervision of Frank H. Bowen, Regional Director for the National Labor Relations Board for the Seventh Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of its Rules and Regulations—Series 1, among the designing engineers of the Chrysler Corporation on the payroll of the Company on the date of this direction, that is, body designers, including lead off men, lay-out men, checkers, detailers and beginners; engineering designers, including checkers, lay-out men, detailers, beginners and tracers; tool, special machine and die designers, including process engineers, checkers, lay-out men, detailers and beginners, in whatever office of the Company they may be located, except such of the aforementioned persons who have authority to hire or discharge, to determine whether they desire to be represented by the Society of Designing Engineers.

[SAME TITLE]

Decision, February 14, 1936

Automobile Industry—Unit Appropriate for Collective Bargaining: community of interest; craft; eligibility for membership in only organization making bona fide effort at collective bargaining; functional coherence—Election Ordered: question affecting commerce: confusion and unrest among employees—contro-

versy concerning representation of employees: majority status disputed by employer: substantial doubt as to majority status—*Certification of Representatives*: petition for denied.

Mr. G. L. Patterson for the Board.

Mr. Louis L. Jaffe, of counsel to the Board.

DECISION

STATEMENT OF CASE

On October 22, 1935, the Society of Designing Engineers, hereinafter called the Union, filed a petition with the National Labor Relations Board for the Seventh Region, for an investigation and certification of representatives, pursuant to Section 9, subdivision (c) of the National Labor Relations Act, approved July 5, 1935. The petition stated that the Union represented 460 of the 700 designing engineers employed by the Chrysler Corporation, hereinafter called the Company; that the Company had refused to deal with the Union as the representative of the engineers; that a determination that the Union is the exclusive representative of the designing engineers would provide a peaceful solution of the question; and that the question concerning the representation of the engineers is a question affecting commerce. On October 30, 1935, the National Labor Relations Board, pursuant to Article II, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, authorized the Regional Director for the Seventh Region to conduct an investigation and to provide for an appropriate hearing upon due notice. Pursuant to such authorization, a notice of hearing to be held December 16, 1935, was issued by the Regional Director on December 4, 1935 and duly served upon the parties.

On December 9, 1935 the Company filed a motion to dismiss and an answer. The motion to dismiss was made for the reasons, that the petition did not state sufficient grounds on which to proceed under the Act; that the Board has no jurisdiction over the Company; that the Company is not engaged in commerce within the meaning of the Act or the Constitution of the United States; that the Act is an attempt by the Congress of the United States to delegate its power to the National Labor Relations Board contrary to the Constitution of the United States, and that the National Labor Relations Act in numerous respects deprives the Company of its property without due process of law in contravention of the Fifth Amendment to the Constitution of the United States. The answer denied that the designing engineers constitute a unit for collective bargaining; denied that the number of employees in the alleged bargaining unit is 700; denied that a question concerning the representation of the designing engineers had arisen or that any such question affected

commerce; and alleged that the relations between the designing engineers and the Company are "professional in nature and are not the relations of laborers in a craft to their employer". In conclusion the answer alleged that a determination that the Union was to be the exclusive representative of the designing engineers would cause strife and discord. The petitioner filed a reply to the answer.

After successive postponements, sometimes upon the motion of the Regional Director, once upon the motion of counsel for the Company, the hearing was finally scheduled for January 13, 1936. On January 11, 1936, the attorney for the Company notified the Regional Director that the Company would not be represented at the hearing. Commencing on January 13, 1936 a hearing was held at Detroit, Michigan by John M. Carmody, sitting as Trial Examiner, and testimony and other evidence was taken. The Company was not represented at the hearing.

FINDINGS OF FACT

Upon the record in the case, the stenographic transcript of the hearing, and all the evidence including oral testimony, documents and other evidence offered and received at the hearing, the following findings of fact are made.

I. THE CHRYSLER CORPORATION

The Chrysler Corporation is a Delaware Corporation, engaged with its subsidiaries—of which there are some 31—in the manufacture and sale of automobiles, and related parts and accessories. It also manufactures and sells marine and industrial engines and other mechanical products. The properties of the Company and its subsidiaries are located in various states of the United States and in Canada. These properties are used for the manufacture of the parts and materials used in the making of automobiles; for the manufacture of the automobiles themselves; for the assembling of automobiles; and for the sales of automobiles and parts of automobiles. The Company also purchases parts and materials in states other than Michigan.

The Company does not use much warehouse space in Detroit. Automobiles are shipped almost as soon as they are completed. Through its subsidiaries, it operates sales branches and depots for the distribution of service parts in Atlanta, Boston, Chicago, Dallas, Detroit, Kansas City (Missouri), Minneapolis, Philadelphia, Pittsburgh, St. Louis, and Seattle. It advertises its products in many magazines of national circulation. It has registered its trademarks for use in interstate commerce. It has also registered its trademarks in foreign countries.

The operations of the Company constitute a continuous flow of trade, traffic and commerce among the several states.

II. THE DESIGNING ENGINEERS

The designing engineers design and plan the products of the Company and its various subsidiaries and the tools and devices used in manufacturing the products. The petitioner at the hearing estimated the number so employed between 800 and 900. Virtually all of the engineering staff engaged in designing the products not only of the Company but of its subsidiaries, are in the Company's employ and are paid by the Company. Most of these work in a central office where the design work for all of the subsidiaries is done; a few are scattered in the offices of the subsidiaries.

The designers fall into three main groups: chassis designers, body designers, and tool and die designers. Each in turn has certain subclasses, the members of which have special aptitudes and experience. These various classifications are known to the industry and are used in hiring and placing men.

In a typical crew devoted to design of the automobile chassis, there will be first an engineer in charge, capable of engineering a complete chassis, his pay averaging \$300.00 to \$325.00 per month. Next come the designers capable of designing major parts, averaging \$250.00 to \$300.00 per month. There are checkers capable of checking all drawings, averaging \$250.00 to \$300.00 per month; detailers who make detail drawings after the design has been made, averaging \$150.00 to \$175.00 per month; detailers of minor parts averaging \$100.00 to \$150.00 per month; and tracers and beginners averaging \$85.00 to \$100.00 per month. With increasing experience, an engineer will usually succeed in going from the lower paid jobs to the higher.

The designers of the automobile body are organized in much the same way. The master design of the entire body is laid out on paper or aluminum sheets from a clay model. The men doing this are known as lead-off men and layout men and earn from \$325.00 to \$350.00 per month. There follow checkers, minor layout men, senior, junior and minor detailers, and beginners.

The tool and die engineers are engaged in designing the tools, dies, and special machiners which will be required to manufacture the products and their parts. The senior classification here is the process engineer, capable of determining what machines and tools, dies and processes will be used. The men in this group: process engineers, layout men, detailers, and beginners, are paid on an hourly basis. The tools designed by them are made in many places in the United States: Springfield, Vermont; Cincinnati, Ohio; Milwaukee, Wisconsin; Rockford, Illinois. The process engineer will determine where the tools can best be made; he may design a special machine without which some of the intricate operations needed in making the tool could not be performed.

Automobile manufacturers through their engineering design staffs, as illustrated by the Chrysler Corporation, exercise a very direct effect on machine tool and parts manufacturers in the United States and Canada. Parts that go to make up the completed car are sketched by engineers in Detroit; the sketches are sent to the parts manufacturers in Canada, Ohio, Wisconsin, wherever they may be, and from whence in due course will come to Detroit the various parts that go to make up the finished automobile; there the sketches are revised and returned to Detroit. This interchange of drawings proceeds until the automobile designer and the parts manufacturer arrive at the finished design. In many cases, also, the process designer will indicate the machine and tools to be used in making the parts; he will specify changes in machines and tools from year to year, thereby affecting the distribution of business among the parts manufacturers, each of whom can make or has available only certain machines and tools. The manufacturers of automobile tools and parts maintain representatives at the headquarters of the automobile manufacturers. These representatives keep in close touch with the engineering departments of the automobile factories so that the parts manufacturer may adapt himself to the continuously changing demands of the automobile maker.

The designing engineers not only play a considerable part in determining the source of the parts which come to the factory but also the use of parts and materials in the factory itself. They compile the lists of parts; they give instructions to the shop as to assembly, inspection, etc. Their work thus precedes and initiates the actual manufacture of both the parts and the automobile, and plays a decisive role in maintaining and promoting the flow of commerce in materials and automobiles.

The designing engineers are a homogeneous and distinctive group. Practically all have received professional training in technical schools or colleges. The training is of a distinctive type. The men are fitted by training and experience to work in more than one of the sub-classifications listed above and can move from a lower to a higher rating. The group is distinguished in function and training from clerical and production workers on the one hand, and from electrical and chemical engineers on the other.

III. THE PETITIONER: SOCIETY OF DESIGNING ENGINEERS

This Society was formed in December, 1932 to improve the employment status of mechanical engineers, draftsmen, and designers. The Union has approximately 2,300 members. Chapters of the Union are organized by cities; a chapter is not organized until there are 50

or more members in a city. As a result of wage cuts, the Chrysler engineers began to join the Union in considerable numbers in the early part of 1935. The Union now claims approximately 476 members among the Chrysler engineers. No other labor organization has sought to organize the engineers.

William E. Denison, business agent of the Union, met with the Company's personnel manager, Mr. Weckler, on July 7, 8, 9 and 10, 1935, to secure wage increases for the engineers. Mr. Weckler asked Denison whom he represented. Denison replied that he represented the designing engineers. Weckler told Denison that the Company would not recognize the Union as the representative of the designing engineers. Shortly after, in laying off 20 men, the Company laid off 7 of the 8 men constituting the Union Committee, men who had been active in the collection of dues and other Union business. There is no charge here that the Company laid off these men because of their Union activity. But this occurrence has, as an objective fact, frightened the workers and increased the difficulties of organizing for purposes of securing representation.

IV. THE APPROPRIATE BARGAINING UNIT

The Union maintains that the designing engineers constitute an appropriate unit for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act. We are of the opinion that the designing engineers of the Chrysler Corporation do constitute such a unit. It appears that by training, experience and employment they constitute a homogeneous and distinctive labor group; that a great many of them have shown a desire for self-organization and self-representation in questions relating to the terms and conditions of their employment; and that no other group has sought or made any claim to represent them.

The Company maintains that each engineer is a highly skilled professional; that his relations to the Company are not those of a laborer but are personal; and thus, should be regulated by individual agreement. The Company's argument is equivalent to the proposition that the designing engineer is not entitled to join with his fellow workers for the purposes of improving his condition by means of collective bargaining, and that the Company has no obligation to deal with a collective representative.

According to the Act, the term "employee" includes "all employees". The nature of the work done by the engineers is made quite clear by the record. It is true that this work requires a considerable degree of skill and more or less imagination. There is nothing, however, peculiarly personal in the relationship between the Company and its

many hundred engineers. They are in no sense executives. The engineers have need of organized strength in common with all wage earners. This is their own opinion as shown by the impetus to organization provided by a wage cut uniformly suffered. We can find no reason for differing with them.

V. QUESTION CONCERNING REPRESENTATION

We find that a question concerning the representation of the designing engineers has arisen, within the meaning of Section 9 (c) of the Act. In its dealings with the Union, the Company refused to accede to the claim of the Union that it represented the designing engineers. It is not known to the Union nor does it appear from the record exactly how many employees there are in the unit. In its petition the Union estimated the number at 700; at the hearing it estimated the number between 800 and 900 but it was in no position to state the number definitively. Consequently it cannot know positively whether its membership constitutes a majority of the workers in the unit. The workers thus do not know whether the Union is entitled to represent them. This doubt and the fear caused by the discharge of the Committee men, whether justified or not, has discouraged the efforts of the engineers to organize and to press their claims effectively. It has caused and continues to cause dissatisfaction with working conditions and friction between the employees and the Company.

The question which has arisen concerning the representation of the designing engineers is one which tends to lead to labor disputes burdening and obstructing commerce or the free flow thereof. The issue of collective representation in the automobile industry has in the past been a principal source of strikes and lockouts; as an inevitable result, commerce has been seriously hampered and curtailed. Thus in 1934 there were eight strikes in the automobile industry over organizational issues; 12,833 workers were involved and 95,856 man-days of labor lost. In the first six months of 1935, there were fourteen such strikes involving 8,512 workers, and 74,505 man-days of labor lost.

The Union is unwilling to expose its membership to the Company for fear of retaliation against the membership. Under these circumstances, it is appropriate to conduct an election by secret ballot among the employees in question. Upon the basis of findings made at that time and now embodied in this opinion, we have already directed an election by secret ballot among the designing engineers of the Chrysler Corporation to determine whether they wish to be represented by the Society of Designing Engineers.

CONCLUSIONS OF LAW

Upon the basis of the above findings, the following conclusions of law are made by the Board:

1. The designing engineers of the Chrysler Corporation, being the following: body designers, including lead-off men, layout men, checkers, detailers, and beginners; engineering designers, including checkers, layout men, detailers, beginners, and tracers; and tool, special machine and die designers, including process engineers, checkers, layout men, detailers and beginners, except such of the aforementioned persons who have authority to hire or discharge, constitute an appropriate unit for purposes of collective bargaining, within the meaning of Section 9(b) of the Act.

2. A question affecting commerce has arisen concerning the representation of the designing engineers of the Chrysler Corporation, within the meaning of Section 9(c) of the Act.

MR. CARMODY acted as Trial Examiner in the hearing of the case and took no part in the above Decision.

[SAME TITLE]

AMENDED DIRECTION OF ELECTION

April 1, 1936

The Board having found that a question affecting commerce has arisen concerning the representation of the designing engineers (as described below) of the Chrysler Corporation, within the meaning of Section 9, subdivision (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, and that an election by secret ballot should be conducted, it is hereby

DIRECTED that, as part of the investigation authorized by the National Labor Relations Board in this case to ascertain representatives for collective bargaining between the designing engineers and the Company, an election by secret ballot shall be conducted within a period of two weeks from the date of this direction of election under the direction and supervision of Frank H. Bowen, Regional Director for the National Labor Relations Board for the Seventh Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of its Rules and Regulations—Series 1, among the designing engineers of the Chrysler Corporation on the payroll of the Company on the date of this direction, that is, body designers, including lead off men, lay-out men, checkers, detailers and beginners; engineering designers, including checkers, lay-out men, detailers, beginners and tracers; tool, special machine and die designers, including process engineers, checkers, lay-out men, detailers and beginners, in whatever office of the Company

they may be located, except such of the aforementioned persons who have authority to hire or discharge, to determine whether they desire to be represented by the society of Designing Engineers.

[SAME TITLE]

DENIAL OF PETITION TO CERTIFY REPRESENTATIVES

May 12, 1936

A petition for an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, approved July 5, 1935, was filed on October 22, 1935 with the Regional Director for the Seventh Region by Society of Designing Engineers, said petition alleging that a question affecting commerce had arisen concerning the representation of the designing engineers of the Chrysler Corporation, Highland Park, Michigan. The National Labor Relations Board on October 30, 1935, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, authorized the Regional Director for the Seventh Region to conduct an investigation and to provide for an appropriate hearing upon due notice. Pursuant to such authorization, notice of hearing was duly issued and served by the Regional Director and on January 13, 1936, a hearing was held at Detroit, Michigan, by John M. Carmody, sitting as Trial Examiner.

After said hearing and upon the full record in the case, the National Labor Relations Board issued its Direction of Election dated January 25, 1936, which Direction was thereafter amended on April 1, 1936. Pursuant to the Amended Direction, an election by secret ballot was conducted by the Regional Director on April 11, 1936 among the designing engineers of the Chrysler Corporation on the payroll of the Company on April 1, 1936, excluding any such engineers as have authority to hire or discharge, said election being held in accordance with Article III, Section 9 of said Rules and Regulations. Thereafter the Regional Director prepared and served upon the parties to the proceeding his Intermediate Report in which he found that 700 persons were eligible to vote in the election, that 125 ballots were cast, and that 121 of such ballots were cast for the Society of Designing Engineers, 1 ballot for "Bill Foster", 1 ballot for "Cia", and 1 ballot for "Self".

NOW THEREFORE, 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 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, the petition to certify representatives is hereby denied.