

In the Matter of WORTHINGTON PUMP AND MACHINERY CORP. and
PATTERN MAKERS ASSOCIATION OF NEW YORK AND VICINITY, PATTERN
MAKERS LEAGUE

Case No. R-303.—Decided December 7, 1937

Steel Products Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: dispute between craft and industrial unions as to appropriate unit—*Unit Appropriate for Collective Bargaining:* craft—wood pattern makers and apprentices; occupational and wage differences; established labor organization in plant; history of collective bargaining relations with employer; desire of employees—*Representatives:* proof of choice: signed authorizations; stipulation as to majority in appropriate unit—*Certification of Representatives:* upon proof of majority representation.

Mr. Charles A. Graham, for the Board.

Mr. Charles M. Barney, of Harrison, N. J., for the Company.

Mr. Harold Ware, of New York City, for the Association.

Mr. Ernest Umpleby, of Schenectady, N. Y., for the League.

Mr. E. J. Lever, of Philadelphia, Pa., for the S. W. O. C.

Mr. Lewis M. Gill, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On July 19, 1937, Pattern Makers Association of New York and Vicinity,¹ herein called the Association, filed with the Regional Director for the Second Region (New York City) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Worthington Pump and Machinery Corporation, Harrison, New Jersey, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On August 6, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, or-

¹ The signature appearing on the petition was "Pattern Makers Assn. of N. Y. & Vic. Pattern Makers League".

dered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On September 14, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Association, and upon the Steel Workers Organizing Committee, herein called the S. W. O. C., a labor organization purporting to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on September 23, 1937, at New York City, before H. R. Korey, the Trial Examiner duly designated by the Board. The Board was represented by counsel, the Company by its secretary, and the Association and the S. W. O. C. by officers of their respective organizations. The Pattern Makers League of North America, herein called the League, the parent body of the Association, was also represented by an officer. All participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. No motions or objections to the admission of any evidence were made at the hearing.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company is a corporation, organized in 1937 under the laws of Delaware, as successor to a corporation of the same name and business which was organized in 1916 under the laws of Virginia. Its executive offices are at Harrison, New Jersey, and its principal manufacturing plants are located in Harrison, New Jersey; Newark, New Jersey; Buffalo, New York; and Holyoke, Massachusetts.

The Company is engaged in the manufacture of pumps, condensers, refrigeration machinery, feed water heaters, gas engines, Diesel engines, and other products. Raw materials used by the Company include iron, steel, copper, coke, and sand. Of the raw materials used at the Harrison plant, which is the only plant concerned in this proceeding, about 90 per cent are ordinarily obtained from outside the State of New Jersey. Of the finished products of the Harrison plant, about 80 per cent are ordinarily shipped by rail, truck, and water into states other than the State of New Jersey and into foreign countries.

The Company has about twenty branch sales offices throughout the United States and employs about 150 salesmen who solicit orders throughout the United States. It advertises in trade journals and has numerous trade marks and foreign patents.

The Harrison plant employs approximately 1,800 men.

II. THE ORGANIZATIONS INVOLVED

Pattern Makers Association of New York and Vicinity is a labor organization affiliated with the Pattern Makers League of North America, which in turn is affiliated with the American Federation of Labor. The Association admits to membership wood pattern makers and apprentices employed by the Company.

Steel Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization, admitting to membership all hourly paid employees of the Company. It has a local, the Harrison Machinery Lodge, for employees at the Harrison plant of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company is unwilling to deal separately with the Association unless the wood pattern makers are found by the Board to be an appropriate unit for collective bargaining. There was placed in evidence at the hearing a copy of a contract entered into between the S. W. O. C. and the Company, effective as of May 15, 1937, recognizing the Harrison Machinery Lodge of the S. W. O. C. as the sole collective bargaining agency for all hourly paid employees of the Company with respect to rates of pay, wages, hours of employment, and other conditions of employment.² However, the contract contained the following provision:

It is understood that the Wood Pattern Makers are excluded from this agreement, pending the settlement of their status by the National Labor Relations Board.

The representation of the wood pattern makers is accordingly unsettled until this Board determines whether or not they constitute an appropriate bargaining unit.

We, therefore, find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

² Harrison Machinery Lodge Exhibit No. 1.

V. THE APPROPRIATE UNIT

The Association contends that the wood pattern makers and wood pattern maker apprentices at the Harrison plant constitute a unit appropriate for collective bargaining. There are 72 employees in this proposed unit. The S. W. O. C. contends that all employees in the plant paid upon an hourly basis should be considered one unit.

The work at the plant consists of engineering and drafting, production of patterns in either wood or metal, molding the patterns in the foundry, and finally the machining and finishing of the final products. The wood pattern makers are skilled craftsmen, each of whom customarily performs a complete operation, consisting of drawing and constructing the pattern or part of a pattern which is assigned to him. The metal pattern makers work on a separate floor in the same building with the wood pattern makers, but there is normally no interchange between these two groups. It was testified that metal pattern makers are more closely akin to the skilled machinists than to the wood pattern makers. The wage scale for the wood pattern makers is different from that applicable to other employees in the plant. The S. W. O. C. membership includes metal pattern makers in the plant, but no wood pattern makers. The president of the Harrison Machinery Lodge of the S. W. O. C. testified that when his organization became active in the plant, no attempt was made to organize the wood pattern makers, some of whom had been organized for many years by the Association. The same witness testified that the S. W. O. C. drive inspired the Association to increase its membership among the wood pattern makers from about 20 per cent to an almost complete enrollment by the time of the hearing. At the time the contract between the S. W. O. C. and the Company was consummated, the S. W. O. C. had secured as members about 95 per cent of the hourly paid employees of the Company.

A witness for the League testified that in a number of recent controversies over representation in various other plants, the S. W. O. C. has agreed that the wood pattern makers should constitute separate bargaining units, despite the organization of the remainder of the employees in the plants into industrial unions. The League, it was testified, has represented wood pattern makers in many plants for the past fifty years, having a membership of between seven and eight thousand. It appears that wood pattern making constitutes a well recognized and clearly defined craft.

In this case, the history of collective bargaining in the plant is not particularly illuminating. The record does not show to what extent the Association has capitalized on its organization in the plant by engaging in collective bargaining with the management in the past. There is some testimony as to certain recent negotiations

between the Company and the two unions here involved. While the S. W. O. C. and the company were engaged in negotiations which resulted in the recent signed agreement, the Association was presenting demands to the Company for a wage increase for the wood pattern makers who had in fact voted to strike unless the increases were forthcoming. The Company requested the two unions to come to some understanding on the demands since it was reluctant to encounter S. W. O. C. opposition to separate bargaining between the Company and the Association. An Association committee then met with a S. W. O. C. committee. The testimony is conflicting as to whether the Association sought the assistance of the S. W. O. C. in securing the wage increase or merely requested the S. W. O. C. to withhold opposition while the Association bargained with the Company. The result, in any event, was that the wood pattern makers did receive a separate wage increase. Previous to this occurrence, the wood pattern makers shared in a general increase secured by the S. W. O. C. for all the employees in the plant.

On one relevant point there was no dispute. It was agreed by all parties that the majority of the wood pattern makers preferred to be represented by the Association.

The contention of the S. W. O. C. rests primarily upon the broad ground that the simultaneous existence of craft and industrial unions in the same plant is not conducive to effective collective bargaining.

We find no great preponderance of evidence in this record in favor of one contention over the other. The industrial form of organization has apparently been successfully applied to this plant, or at least has made an auspicious beginning as indicated by the contract recently entered into. On the other hand, the Association has been in the plant for many years, representing employees of a well-defined craft. In other plants, the industrial unions have seen fit to recognize the separate status of the wood pattern makers, and while this is by no means conclusive, it does indicate that such separate representation has not universally been regarded, even by the industrial unions, as an intolerable arrangement. The recent negotiations prove little one way or the other.

The Board has held that the desire of the employees in the disputed group is to be given considerable weight.³ In this case it is conceded by the S. W. O. C. that the wood pattern makers prefer separate representation. Furthermore, the S. W. O. C. admittedly has no membership among them. In the light of all the circumstances of this case, we believe that the separate representation desired by the wood pattern makers should be permitted.

³ *Matter of the Globe Machine and Stamping Co and Metal Polishers Union, Local No 3, International Association of Machinists District No 54, Federal Labor Union, 18788, and United Automobile Workers of America, 3 N. L. R. B. 294*

We find that the wood pattern makers and wood pattern maker apprentices employed by the Company constitute a unit appropriate for the purposes of collective bargaining, and that such unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining, and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

At the hearing the Company submitted a sworn list of the wood pattern makers and apprentices employed in the Harrison plant on July 2, 1937.⁴ It was agreed by both unions that this list was to be determinative of the employees in question. The list contained 72 names. The Association submitted a statement signed by 69 of these 72 men, designating the Association as their collective bargaining agency.⁵ This statement was dated June 17, 1937, and was duly sworn and subscribed. No evidence tending to discredit this list of signatures was submitted. In addition, it was agreed by all parties that, if polled, the majority of the wood pattern makers would select the Association as their representative.

Under the circumstances, no secret ballot is necessary. We find that the Association has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Worthington Pump and Machinery Corporation, Harrison, New Jersey, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The wood pattern makers and wood pattern maker apprentices employed by the Company constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. Pattern Makers Association of New York and Vicinity is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

⁴ Board's Exhibit No. 5.

⁵ Board's Exhibit No. 7

CERTIFICATION OF REPRESENTATIVES

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,

IT IS HEREBY CERTIFIED that Pattern Makers Association of New York and Vicinity has been designated and selected by a majority of the wood pattern makers and wood pattern maker apprentices employed by Worthington Pump and Machinery Corporation, Harrison, New Jersey, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Pattern Makers Association of New York and Vicinity is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment:

EDWIN S. SMITH, dissenting:

In this plant of 1,800 employees, there was up until the coming of the S. W. O. C. no effective labor organization. The Association had succeeded in organizing about 20 per cent of the wood pattern makers, but the record is silent as to any effective bargaining between the Company and this minority group. With the advent of the industrial union, labor organization gathered headway rapidly in the plant; at the time the S. W. O. C. made its agreement with the Company in May about 95 per cent of the employees had affiliated with it. The union of pattern makers, which had remained for many years on an ineffective basis, now achieved a sudden spurt as a result of the general enthusiasm for organization created by the S. W. O. C.

On the basis of the number of wood pattern makers now enrolled in its ranks, the Association would be entitled to certification. The question is whether its history in the plant entitles the craft, on whose behalf it functions, to be set aside as a separate bargaining unit, in view of the considerations which indicate the appropriateness of an industrial unit. These considerations, as set forth by me in other dissenting statements,⁶ are convincingly present in this case. There seems no special warrant in the claims put forward by the Association for weakening collective bargaining in an industrial unit by depriving the unit of the strength of this group of skilled workers. I think the decision should deny the petition of the Association.

⁶ *Matter of Allis-Chalmers Manufacturing Company and International Union, United Automobile Workers of America, Local 248*, 4 N L R B 159, and *Matter of Schick Dry Shaver Company and Lodge No 157, International Association of Machinists*, 4 N L R B 246.