

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**MERCEDES-BENZ U.S. INTERNATIONAL,  
INC. (MBUSI)**

**and**

**Cases 10-CA-112406**

**KIRK GARNER**

**and**

**10-CA-115917**

**10-CA-121232**

**INTERNATIONAL UNION, UNITED  
AUTOMOBILE, AEROSPACE &  
AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA**

**SUPPLEMENTAL DECISION AND ORDER**

Statement of the Cases

On October 25, 2017, Mercedes-Benz U.S. International, Inc. (MBUSI) (the Respondent); Charging Parties Kirk Garner and International Union, United Automobile, Aerospace & Agricultural Implement Workers of America; and Counsel for the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, approved by the Regional Director for Region 10 on March 12, 2018 and subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals.<sup>1</sup> The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the parties waived their rights to contest the entry of a consent judgment or to receive further notice of the application therefor.

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<sup>1</sup> The Board issued a Decision and Order in this proceeding on November 26, 2014. 361 NLRB No. 120. The United States Court of Appeals for the Eleventh Circuit enforced the Board's Order in part, including the Board's findings that the Respondent maintained an overly broad rule regarding the solicitation and distribution of materials and that it unlawfully prohibited solicitation and distribution in its atriums. 838 F.3d 1128 (11th Cir. 2016). The Court remanded to the Board for further analysis concerning the allegations that the Respondent violated Sec. 8(a)(1) by enforcing the overly broad rule by prohibiting union solicitation and distribution in the Respondent's team centers. This Formal Settlement Stipulation pertains only to the outstanding allegations remanded by the court.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Supplemental Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

### **Findings of Fact**

#### **1. The Respondent's business**

(a) The Respondent is and has been at all material times a corporation with an office and place of business in Vance, Alabama (the Respondent's facility), and has been engaged in the manufacture and the nonretail sale of automobiles.

(b) In conducting its operations during the 12 months preceding October 25, 2017, the Respondent sold and shipped from its Vance, Alabama facility goods valued in excess of \$50,000 directly to points outside the State of Alabama.

(c) At all material times, the Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

#### **2. The labor organization involved**

At all material times, the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America has been a labor organization within the meaning of Section 2(5) of the Act.

### **ORDER**

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that the Respondent, Mercedes-Benz U.S. International, Inc. (MBUSI), Vance, Alabama, its officers, agents, successors, and assigns, shall

#### **1. Cease and desist from**

(a) Prohibiting distribution in the team center located between C-01 and F1-18 (the Gilbert Team Center) in Assembly 2 during the time immediately before the pre-shift meeting and during designated breaks by employees who are not on working time.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days of service by the Region:

(i) Post at its Vance, Alabama facility copies of the Notice to Employees attached as Appendix 1. Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(ii) Electronically post the Notice to Employees for employees at its Vance, Alabama facility, if the Respondent customarily uses electronic means such as an electronic bulletin board, e-mail, website, or intranet to communicate with those employees.

(iii) In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at the closed facility at any time since September 3, 2013.

(b) Within 21 days after service by the Region, file with the Regional Director for Region 10 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply. The certification shall include a copy of the documents signed by a company representative, attesting to the dates that the notices were received at the Vance, Alabama facility, and the dates that the notices were posted.

Dated, Washington, D.C., March 29, 2018

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Marvin E. Kaplan, Chairman

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Lauren McFerran, Member

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William J. Emanuel, Member

(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

## APPENDIX 1

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING  
FOR A BOARD ORDER AND A CONSENT JUDGMENT  
OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS**

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union  
Choose a representative to bargain with us on your behalf  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** prohibit distribution in the team center located between C-01 and F1-18 in Assembly 2 during the time immediately before the pre-shift meeting and designated breaks provided the involved employees are not on working time.

**WE WILL NOT** in any like or related manner interfere with your rights under Section 7 of the National Labor Relations Act.

**MERCEDES-BENZ U.S. INTERNATIONAL, INC. (MBUSI)**

The Board's decision can be found at [www.nlr.gov/case/10-CA-112406](http://www.nlr.gov/case/10-CA-112406) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half St., S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

