

In the Matter of WALTER KIDDE & COMPANY, INC. and TOOL, DIEMAKERS  
& MACHINISTS LOCAL 420, UNITED ELECTRICAL, RADIO & MACHINE  
WORKERS OF AMERICA, CIO

*Case No. 2-R-5265.—Decided November 29, 1945*

*Lum, Fairlie & Wachenfeld*, by Mr. Joseph J. Biunno, of Newark,  
N. J., for the Company.

*Rothbard, Harris & Talisman*, by Mr. Clarence Talisman, of Newark,  
N. J., for the Union.

*Mr. Jack Mantel*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a second amended petition duly filed by Tool, Diemakers & Machinists Local 420, United Electrical, Radio & Machine Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Walter Kidde & Company, Inc., Belleville, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Richard J. Hickey, Trial Examiner. The hearing was held at Newark, New Jersey, on August 2, 1945. The Company and the Union 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. In its brief, the Company moved to dismiss the petition on the ground that the unit sought by the Union is inappropriate. For reasons hereinafter stated, the motion is hereby overruled.

Upon the entire record in the case,<sup>1</sup> the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Walter Kidde & Company, Inc., a New York corporation, has its main office at Belleville, New Jersey, and operates 5 plants located in

<sup>1</sup> The Company and the Union filed a joint motion to correct a certain error in the transcript of testimony. The record has been corrected, as requested.

and around Belleville and Bloomfield, New Jersey, where it is engaged in the manufacture of all types of fire extinguishing equipment, inflation equipment for life rafts, and allied products. During the year ending July 31, 1945, the Company used more than 10,000 tons of bronze, aluminum, alloy sheets, zinc, carbon steel, piping, and other raw materials, of which over 65 percent was received from points outside the State of New Jersey. During the same period, the Company shipped finished products valued in excess of \$20,000,000, of which approximately 95 percent was shipped to points outside the State.

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

## II. THE ORGANIZATION INVOLVED

Tool, Diemakers & Machinists Local 420, United Electrical, Radio & Machine Workers of America, is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

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

The Union seeks a unit comprising all salaried employees in the Manufacturing Division of the Company's plants, including the salaried employees in the manufacturing, manufacturing engineering, production, inspection, Youngstown-Miller products shop, and time-keeping and dispatching departments, but excluding the employees in the purchasing, and installation and service departments, confidential employees, and supervisory employees.<sup>3</sup> While the Company agrees

<sup>2</sup> The Board agent reported that the Union submitted 255 authorization cards and that there were 375 employees in the unit alleged to be appropriate by the Union, as of June 28, 1945.

<sup>3</sup> The Union, in effect, is seeking a unit of technical and clerical employees. The Union is the present collective bargaining representative in a unit consisting of the Company's "hourly" production and maintenance employees.

that the salaried employees might constitute an appropriate unit, it contends that such employees should not be represented by the same labor organization as represents the hourly paid employees. The Board has frequently held, however, that clerical and technical employees, although generally excluded from units of production and maintenance workers, may constitute separate appropriate units and may be represented therein by whatever bargaining agency they choose.<sup>4</sup> The Company also contends that timekeepers, checkers, control men, methods engineers, methods men, and all employees in the Time Study Department, all of whom the Union would include, should be excluded from any appropriate unit because of their managerial functions. These disputed groups of employees are hereinafter discussed.

*Timekeepers, Checkers, and Control Men:* These employees are in the Company's timekeeping and dispatching department. Their respective duties are concerned with recording, checking, and counting the output of production workers. The main duty of the timekeeper is to maintain workers' time cards which contain information relating to quantity, pay rate and attendance; the checker calculates figures to avoid cost, pay roll, and production record errors; and the control man is concerned mainly with the dispatching of work through the shops, by following up machine delays and the movement of jobs to the next operation. Although they have knowledge of the pay rates and earnings of the workers, they do not participate in setting these rates. We are of the opinion that the duties performed by the timekeepers, checkers, and control men are not of a managerial nature.<sup>5</sup> We shall therefore include them in the appropriate unit.

*Methods Engineers & Methods Men:* These employees develop manufacturing, assembly, inspection, and test methods on new products, or new methods suggested by engineering changes or special requirements. They investigate mechanical difficulties and suggest corrective measures, but take no part in the setting of wage rates. The Company would exclude these employees from the unit because of their responsibilities in determining that jobs are being performed in the most efficient manner. However, the Company would include in the appropriate unit tool designers whose technical knowledge, responsibilities, and salary are comparable to those of the methods engineers. We are of the opinion that the methods engineers and methods men are not managerial employees; we shall therefore include them.<sup>6</sup>

*Time Study Engineers and Time Study Men:* These employees conduct time studies on work operations throughout the plants. In their

<sup>4</sup> See *Oliver Farm Equipment Company*, 53 N. L. R. B. 1078, and cases cited therein.

<sup>5</sup> See *Matter of Bethlehem-Fairfield Shipyard, Incorporated*, 59 N. L. R. B. 602.

<sup>6</sup> See *Matter of Union Switch and Signal Company*, 63 N. L. R. B. 974.

study of job operations, one of the important elements is the determination of effort ratings, the time study man being the sole judge in ascertaining the amount of effort used by the production workers. They also exercise independent judgment in setting wage rates which determinations are generally followed by the Company. The time study engineers, who have more experience than the regular time study men, perform similar duties. The former also investigate wage grievances submitted on behalf of the production employees. In view of the managerial nature of the duties performed by the time study engineers and the time study men, we shall exclude them from the appropriate unit.<sup>7</sup>

*Clerks in Time Study Department:* These employees perform the usual office clerical duties such as filing and typing. They do not participate in the setting of rates of pay. Accordingly, we shall include them.

We find that all salaried employees in the Manufacturing Division of the Company's plants, including the salaried employees in the manufacturing, manufacturing engineering, production, inspection, Youngstown-Miller products shop, and timekeeping and dispatching departments (including timekeepers, checkers and control men), time study clerks, methods engineers and methods men, but excluding time study engineers, time study men, the employees in the purchasing, and installation and service departments, confidential employees, and 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.

#### 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

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<sup>7</sup> See *Matter of The Yale & Towne Manufacturing Company*, 60 N. L. R. B. 626, and *Matter of Star Watch Case Company*, 61 N. L. R. B. 224

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 Walter Kidde & Company, Belleville, New Jersey, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Second 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 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 or not they desire to be represented by Tool, Diemakers & Machinists Local 420, United Electrical, Radio & Machine Workers of America, CIO, for the purposes of collective bargaining.