Blog Post

Union Organizing Trends: Use of Technology and Social Issues

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Union organizers are effectively using technology and capitalizing on prominent social issues to dramatically increase union organizing in the technology industry and elsewhere. No longer do union organizers have to meet employees face-to-face in their homes, their employer's parking lot, or in a public gathering location such as in a restaurant or bar. The widespread use of smart phones, email and social media has enabled union organizers to recruit members virtually. These much less time-intensive organizing techniques have allowed union organizers to be more efficient and organize more employees in far less time.

Once unimaginable, highly compensated employees forming a union to challenge powerful employers is now a reality. The same actions occurred in the 1930s when highly paid actors and other movie professionals formed unions to combat the very powerful Hollywood studios. Now, with technology occupying an increasingly dominant position in our daily lives, unions are focusing on the technology industry. Increased union organizing of food service workers and security guards, and movements like "Fight For 15" and "Justice For Janitors" are appealing to the new generation of tech workers who have different values than their predecessors, in part based on being highly compensated and more difficult to replace. Unions have seized this

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opportunity by joining employee activism in social issues such as climate change, racial justice, harassment prevention, equal pay, diversity, equity, and inclusion.

New Focus on Social Issues

Social issues have replaced the typical economic issues as the focal point for union organizing tactics in the tech industry, because tech employees are relatively highly compensated. For example, Glitch and Communications Workers of America (CWA), signed what they claim was the first collective bargaining agreement (CBA) in the country covering white collar tech employees. Instead of economic issues like wages and benefits, the CBA focused on job security issues relating to the economic uncertainties of the pandemic, and a "just cause" requirement for termination decisions.

Similarly, employees of Medium, an online publishing forum, formed a union with the assistance of CWA, and stated their goals as social justice, protection against harassment and discrimination, and diversity and inclusion initiatives.

Pay equity issues were the focus of the Writers Guild of America during its negotiations with Gimlet, a subsidiary of digital music service Spotify. And on March 16, 2021, the editorial writers of Fortune magazine walked off the job for 24 hours to emphasize their pay inequity claims: women earn 84 percent of men's wages, and people of color earn 78 percent of white wages.

Indeed, a recent survey by a technology industry placement company found that starting salaries offered to men were 59 percent higher than women for the same position at the same company.

Recent Targets

Several well-known technology employers have become targets of recent union organizing activity.

For example, we have seen these developments:

- At the end of 2018, thousands of Google employees signed a petition asking Google to stop working for a contractor because it served the defense industry.

- In September, 2020, the United Steelworkers of America (USW) organized the employees of a Google contractor located in Pittsburgh, near the USW's headquarters office.

- Similar to Google, Amazon presents an attractive target for union organizing. In September, 2019 full time Amazon office workers organized a walkout in support of climate action, and demanded that Amazon commit to: (1) zero emissions by 2030; (2) zero custom cloud computing contracts with fossil fuel companies; and (3) zero funding for climate-denying politicians and lobbyists. An important union loss occurred in April, 2021, when Amazon Bessemer, Alabama warehouse personnel voted to reject representation by Retail, Wholesale, Department Store Union (RWDSU) by a two-to-one margin. That election result is subject to NLRB review of objections filed by RWDSU.

- In 2020, Kickstarter employees, with the assistance of Office, Professional Employees International Union, won an NLRB election by a vote of 46 to 37. One of the main issues prompting union organizing was Kickstarter employees' opposition to a management decision to remove a funding page for a graphic novel about racism and bigotry after it had been written about by a right-wing website. That is an excellent example of the type of employee activism issues that can cause union organizing in today's tech industry.

New Resources Assist Organizing

To assist with virtual online organizing, several resources have been launched to provide support to employees who want to form a union. The not-for-profit entity "coworking.org" was established by a

former Service Employees International Union organizer to provide advice, strategy, and fund raising to assist union organizing efforts. Many of the issues addressed by "coworking.org" include non-traditional social issues that appeal to tech workers.

Similarly, Unit is a new online platform where employees can find resources to help create their own legal labor union. It was launched in late 2020 by traditional labor union veterans, offering digital tools and expertise to guide employees in a union organizing drive, an election campaign, collective bargaining and CBA administration. It claims to offer advice on effective communication techniques, in addition to counselling employees on strategic decision making.

Unions are being formed as a result of such resources. For example, Tech Workers Union Local 100 (TWU) was formed as an on-line effort of Office, Professional Employees International. TWU has organized public protests regarding political and social issues.

Shifting Union Make-Up?

The make-up of unions themselves may shift as a result of employee activism.

For example, in early January, 2021, two Google software engineers announced the formation of the Alphabet Workers Union (AWU), supported by CWA Coalition to Organize Digital Employees (CODE-CWA). AWU is not a traditional union because it seeks to represent all Google workers, including full time, part time and temporary employees, as well as independent contractors. AWU's stated goals include social issues such as: contract workers to be paid the same as full time employees; improved handling of sexual harassment allegations; increased diversity and inclusion; and providing workers the right to decline work assignments that do no align with their personal values.

An important distinction between AWU and a traditional union is that AWU does not currently represent a majority of Google's employees, so Google is not required to negotiate with AWU. It will be interesting to observe the development of AWU, to see if it becomes a more traditional union representing a majority of Google's employees, or whether it continues to include independent contractors. Assuming that it continues to represent independent contractors, it will be interesting to observe its interactions with Google to determine if Google is willing to agree with any of its goals.

Another way unions may morph is through the passage of legislation. For example, legislation has been proposed in New York that would grant to independent contractors (including gig workers) limited state statutory rights to negotiate wages and benefits. Unions have opposed this concept because it does not provide the full spectrum of bargaining rights that are required by the National Labor Relations Act. It will be interesting to monitor this state legislative concept as it progresses in New York, as well as whether it will spread to other states.

The Takeaways for Employers

The best advice for all employers that wish to remain union-free, including tech industry employers, is to establish and implement employment practices and policies that ensure:

1. Positive employment culture and environment;

2. Effective internal communications systems (apps, social media, websites, etc.) that emphasize being responsive to employee concerns;

3. Management training regarding fair and consistent treatment of employees as "valued contributors," and clearly identifying the type of communications and actions that are not permitted during a union campaign;

4. Employee involvement in solving problems;

5. Regular communications with employees that demonstrate transparency of decisions, policies, and actions; and

6. Social equity, including racial and gender equity.

In addition, employers should consider proactively auditing their union vulnerability, as well as pay policies, practices, and decisions to ensure that they are based on legitimate non-discriminatory criteria.

For assistance with these and other workplace issues, contact your Akerman attorney.