

‘Old-school union busting’: how US corporations are quashing the new wave of organizing



‘We’re seeing the same situation over and over – workers going up against billionaires and billion-dollar companies with an endless amount of resources while our labor laws are far too weak,’ said barista Michelle Eisen. Composite: The Guardian/Getty Images

Victories at several companies energized organizers, but hostile corporations – and an impotent labor board – stymie negotiations

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US corporations have mounted a fierce counterattack against the union drives at Starbucks, Amazon and other companies, and in response, federal officials are working overtime to crack down on those corporations’ illegal anti-union tactics – maneuvers that labor leaders fear could significantly drain the momentum behind today’s surge of unionization.

5 The National Labor Relations Board (NLRB), the federal agency that polices labor-management relations, has accused Starbucks and Amazon of a slew of illegal anti-union practices, among them firing many workers in retaliation for backing a union. Nonetheless, many workplace experts question whether the NLRB’s efforts, no matter how vigorous, can assure that workers have a fair shot at unionizing.

10 “We’re seeing the same situation over and over – workers going up against billionaires and billion-dollar companies with an endless amount of resources while our labor laws are far too weak,” said

Michelle Eisen, a barista in Buffalo who helped lead the early unionization efforts of Starbucks in that city. “We’re all fighting for the same thing against different companies. We’re all in the same boat. No one denies that there are a lot of obstacles to overcome.”

15 “The labor board is doing its job with the limited resources it has,” she added. “But Starbucks continues to break the law flagrantly.” The union asserts that Starbucks has engaged in illegal retaliation by firing 150 pro-union baristas and closing a dozen recently unionized stores.

Echoing many union leaders, Eisen says US labor laws are woefully inadequate because they don’t allow regulators to impose any fines on companies that break the law when fighting against
20 unionization. Starbucks and Amazon deny firing anyone illegally or violating any laws in their fight against unionization.

“These workers were supposed to be able to get together without fear of retaliation,” said Lynne Fox, president of Workers United, the union that workers at more than 280 Starbucks have voted to join. “But companies, including Starbucks, have determined that the penalty for retaliation is
25 minimal – and much more appealing than allowing workers to unionize. Violating workers’ rights has simply become part of the cost of doing business.” Labor leaders complain that the penalty imposed for illegal retaliation is often just an order to post a notice on a company’s bulletin boards saying that it broke the law.



Members of the Amazon Labor Union were joined by Starbucks workers in Times Square in Manhattan to demand union recognition on Labor Day 2022. Photograph: Michael M Santiago/Getty Images

Newly unionized workers are also frustrated and angry that efforts to reach a first contract are
30 taking so long, with some unions asserting that companies are deliberately and illegally dragging out negotiations – an assertion the companies deny. Workers won breakthrough union victories at Starbucks in December 2021, and the next year saw several other organizing victories. [...] The extraordinary recent wave of unionization that corporate America has faced over the past year has been met with what union supporters say is an equally extraordinary wave of union-
35 busting that has slowed and even stopped some unionization efforts. [...]

The NLRB has accused Apple of illegally spying on and threatening workers. The company's anti-union efforts helped pressure Apple store workers in Atlanta to withdraw their request to hold a unionization election, although workers at Apple stores in Towson, Maryland, and Oklahoma City have voted to unionize. [...]

40 On 17 February, a day after employees at a Tesla plant in Buffalo announced plans to unionize, Tesla fired dozens of workers there. Union supporters complained to the NLRB that Tesla dismissed 37 workers "in retaliation for union activity and to discourage union activity". Tesla said the terminations had nothing to do with the union drive and were part of its regular performance-evaluation process. [...]

45 The NLRB has accused Amazon's CEO, Andy Jassy, of illegally coercing and intimidating workers by saying they would be "less empowered" if they unionized. NLRB judges have ruled that Amazon fired several pro-union workers illegally, and the board recently accused Amazon of unlawfully terminating one of the most effective organizers at its JFK8 warehouse on Staten Island, where the Amazon Labor Union won a landmark victory for the warehouse's 8,300 employees last 1 April.
50 Amazon has filed a series of challenges to overturn the union's Staten Island victory in the hope of not having to recognize or bargain with the union. [...]

Benjamin Sachs, a labor law professor at Harvard, admits to some surprise that several supposedly progressive companies are using hardball anti-union tactics. "What we have is new economy companies using the old, anti-union playbook on a national scale and in a way that people are
55 paying attention to," Sachs said.

"It's not new, but it's more prominent: firing union organizers, threatening to close stores, closing stores, not bargaining, holding captive audience meetings, selective granting of benefits. To observers of labor, this has been going on for a long time. What's different is these companies that hold themselves as different and progressive – they're proving they're not. There's a dissonance
60 between these brands' progressive image and their old-school union-busting."

Amazon has repeatedly denied any illegal anti-union actions. It said: "We don't think unions are the best answer for our employees" and "our focus remains on working directly" with our team "to continue making Amazon a great place to work". Amazon argues that the union's win on Staten Island "was not fair, legitimate or representative of the majority" and should therefore be
65 overturned, maintaining that the union illegally intimidated and harassed anti-union workers and illegally distributed marijuana to win support.

Starbucks denies that it fired any pro-union baristas unlawfully, saying that those workers were dismissed for misconduct or violating company rules. The company denies that it is deliberately dragging out negotiations, saying: "Counter to the union's claims, Starbucks continues to engage
70 honestly and in good faith while ensuring actions taken align with decades of case law and precedent." It added: "We've come to the table in person and in good faith for 84 single-store contract bargaining sessions since October 2022." Starbucks acknowledges that it has walked out of bargaining sessions because the workers "insist on broadcasting" the sessions "to unknown individuals not in the room and, in some instances, have posted excerpts of the sessions online".
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A pro-union sign in Union Square, New York City. Photograph: UCG/Universal Images Group/Getty Images

Eisen, the barista in Buffalo, voices keen dismay that Starbucks keeps ratcheting up the pressure against the union drive. Arguably its most effective strategy to discourage unionization was not the firings or store closings, but when its CEO, Howard Schultz, announced that the company would give certain raises and benefits to its nonunion workers while denying them to workers at its unionized stores. The NLRB has brought a complaint asserting that this Starbucks policy illegally discriminates against union members. [...]

“One of the things we need to win is public pressure,” Eisen said. “Can we let billionaires and billionaire companies continue to bully their way out of union campaigns? That’s essentially what is happening. It’s not fair. We need as much help as we can get. We need the public to recognize that these companies are not as good as they say they are.” [...]