

As grounds for this Opposition, Opposers allege as follows:

1. Application Serial No. 76/159889 for registration of the mark "WESTFIELD BANK" on the Principal Register was filed on November 6, 2000, based upon Applicant's bona fide intent to use said mark. Applicant seeks registration of that mark for use in connection with banking, savings and loan services, as evidenced by the publication of said service mark in the June 10, 2003 issue of the Official Gazette.
2. Opposer Westfield Bank is the wholly-owned subsidiary of Opposer Westfield Financial, whose stock is traded on the American Stock Exchange under the symbol "WFD," and is the indirect subsidiary of Opposer Westfield Mutual.
3. Opposers are now, and have been for some time, engaged in providing retail, commercial, savings, and mortgage banking services, namely, individual, partnership and corporate deposit accounts; personal, business and commercial loans, lines of credit and lease financing; safe deposit, depository and safekeeping services; and personal, consumer, business and commercial financial transactional services.
4. From April 1853 to approximately March 1997, Opposers provided banking services under the name "WESTFIELD SAVINGS BANK," which name they used continuously and without interruption in interstate commerce throughout that period.
5. In approximately March 1997, Opposers deleted the word "Savings" from their name and Opposers have been using the "WESTFIELD BANK" mark in interstate commerce in connection with various banking services continuously and without interruption or abandonment from March 1997 through the present time.
6. On July 10, 2000, Opposer Westfield Bank registered the domain name "westfieldbank.com." Westfield Bank has established a web site using that domain name at

which it offers information and services to its customers and prospective customers. Two days after Westfield Bank registered its mark as a domain name, Applicant registered "westfield-bank.com", which Applicant is using in connection with the provision of banking services. That web site has caused instances of actual confusion among Westfield Bank's customers.

7. On March 23, 2001, Opposer Westfield Bank filed a use-based application (Serial No. 76/229151) to register on the Principal Register the service mark "WESTFIELD BANK" in connection with retail, commercial, savings, and mortgage banking services, namely, individual, partnership and corporate deposit accounts; personal, business and commercial loans, lines of credit and lease financing; safe deposit, depository and safekeeping services; and personal, consumer, business and commercial financial transactional services. That application is currently in suspension pending, in part, the outcome of Applicant's application that is the subject of this Opposition.

8. Opposers have expended considerable effort and expense in promoting their mark "WESTFIELD BANK" and the services sold under such mark, with the result that the purchasing public has come to know, rely upon and recognize the services of Opposers by such mark. Opposers have extensive valuable goodwill established in their mark.

9. Opposers' mark "WESTFIELD BANK" is symbolic of the extensive goodwill and recognition built up by Opposers through continuous use of said mark over a substantial period of time. As such, Opposers' "WESTFIELD BANK" mark has acquired distinctiveness and attained secondary meaning.

10. Applicant's intent to use application for registration of the mark "WESTFIELD BANK" (Serial No. 76/159889) was not filed until November 2000. Thus, Opposers actually began using the term "WESTFIELD" in their name more than 147 years prior to the filing date

of Applicant's application, and began using the specific mark "WESTFIELD BANK" more than 3 years before the filing of that application.

11. Applicant's mark "WESTFIELD BANK" is a geographically descriptive mark. The primary significance of the term "WESTFIELD" in the subject mark is geographic and it names a specific place: Westfield Center, Ohio. Applicant's services come from the geographic area named in the mark and the relevant purchasing public for Applicant's services includes people who live in and around Westfield Center, Ohio. Applicant's headquarters have been located in Westfield Center, Ohio, since February 2001, when the company was founded by its parent, Ohio Farmers Insurance Company ("Ohio Farmers"). Moreover, the Ohio Farmers' web site (www.westfield-cos.com) provides an extensive history of Ohio Farmers and the member companies of the so-called "Westfield Group" (including Applicant) that is intertwined with the history and development of the geographic area of Westfield Center, Ohio.

12. Applicant's addition of the merely descriptive or generic term "BANK" to the otherwise geographically descriptive term "WESTFIELD" adds nothing in the way of distinctiveness to the mark. The term "BANK" merely describes the banking services offered by Applicant.

13. Applicant's mark "WESTFIELD BANK" has not acquired distinctiveness through actual use or otherwise attained secondary meaning. Applicant has used the mark "WESTFIELD BANK" for less than three years.

14. Applicant began actually using the name "WESTFIELD BANK" in approximately February 2001. However, Applicant has not filed an Amendment to Allege Use. In contrast, Opposers have been using their mark "WESTFIELD BANK" since March 1997. Because Opposer Westfield Bank filed its application to register "WESTFIELD BANK" less

than two months after Applicant first began using the mark "WESTFIELD BANK," and by that time Opposers already had been using their mark for years, Applicant's mark did not acquire distinctiveness or attain secondary meaning by the time Westfield Bank filed its application.

15. Additionally, Opposers' mark "WESTFIELD BANK" and Applicant's mark "WESTFIELD BANK" are confusingly similar based on the similarities of sound, appearance, and connotation. Indeed, the spelling of the two marks is identical. The services Opposers have provided using the mark "WESTFIELD BANK" are closely related to the services identified in the Applicant's application to register "WESTFIELD BANK" and, on information and belief, are and/or will be marketed through the same or similar channels of trade or the same class of consumers.

16. By reason of Opposers' extensive use of the "WESTFIELD BANK" mark, and Applicant's adoption of the same mark in connection with the very recent and confusing rebranding of a large group of affiliated companies under the new "Westfield Group" trade name, the public will believe that Applicant's use of its mark "WESTFIELD BANK" is sponsored or approved by Opposers and that the quality of the services bearing Applicant's mark has been approved and/or maintained by Opposers.

17. In view of these similarities, Applicant's use of "WESTFIELD BANK" is likely to cause confusion, mistake, or deception with respect to Opposers' senior mark "WESTFIELD BANK" and to damage the goodwill represented and symbolized by Opposers' mark.

18. Based on all the foregoing, Applicant's registration of the mark "WESTFIELD BANK" on the Principal Register of the United States Patent and Trademark Office would clearly cause injury and damage to Opposers.

19. Based on all the foregoing, Applicant's mark "WESTFIELD BANK" is not entitled to registration on the Principal Register of the United States Patent and Trademark Office.

WHEREFORE, Opposers pray that this Opposition be sustained and that registration of Applicant's mark "WESTFIELD BANK" as shown in Application Serial No. 76/159889 be refused.

Respectfully submitted,

WESTFIELD MUTUAL HOLDING COMPANY,
WESTFIELD FINANCIAL, INC., and
WESTFIELD SAVINGS BANK d/b/a
WESTFIELD BANK

By their attorney,



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