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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91157514
Party	Defendant Westfield Financial Corporation Westfield Financial Corporation Two Park Circle Westfield Center, OH 44251
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Submission	Joint Statement In Support Of Concurrent Use Registrations
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Date	01/07/2005
Attachments	WESTFIELD_JOINTSTATEMENT.pdf (6 pages)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark Application Serial No. 76/165113
In the matter of trademark Application Serial No. 76/159889

For the marks WESTFIELD GROUP and WESTFIELD BANK

Published in the Official Gazette on May 28, 2002
Published in the Official Gazette on June 10, 2003, respectively

_____)	
Westfield Savings Bank d/b/a)	
Westfield Bank,)	CONSOLIDATED
Opposer,)	
)	
v.)	Opposition No. 91153975 (parent)
)	Opposition No. 91157514
Ohio Farmers Insurance Company,)	
Applicant.)	
_____)	

BOX TTAB
NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

JOINT STATEMENT IN SUPPORT OF CONCURRENT
USE REGISTRATIONS

Sir/Madam:

Pursuant to 37 C.F.R. §2.99, Westfield Savings Bank d/b/a Westfield Bank (“WSB”) (Applicant in pending application Serial No. 76/229151) and Westfield Financial Corporation (“WFC”) (Applicant in pending application Serial No. 76/159889) hereby submit the following joint statement in support of their respective applications for concurrent use registrations of the mark WESTFIELD BANK.

The Applicants

1. WSB is the wholly-owned subsidiary of Westfield Financial, Inc. ("WFD"), whose stock is traded on the American Stock Exchange under the symbol "WFD," and the indirect subsidiary of Westfield Mutual Holdings Company ("WMHC" and, collectively with WSB and WFD, the "Massachusetts Parties"). WSB is headquartered at 141 Elm Street, Westfield, Massachusetts and currently operates ten branches in Massachusetts.

2. WFC is a wholly-owned subsidiary of Ohio Farmers Insurance Company ("Ohio Farmers"). Ohio Farmers is the parent company of a group of property and casualty insurance companies collectively referred to as the Westfield Companies (collectively with WFC and Ohio Farmers, the "Ohio Parties"). WFC is headquartered and currently operates one branch at Two Park Circle, Westfield Center, Ohio.

Uses of WESTFIELD BANK by the Applicants

3. WSB claims (i) that it has provided various banking services under the name "Westfield Savings Bank" from April 1853 to approximately March 1997, when it deleted the word "Savings" from its name, and (ii) that it has since used the WESTFIELD BANK mark in interstate commerce in the Commonwealth of Massachusetts in connection with various banking services continuously from March 1997 to the present. WSB neither uses nor intends to use the WESTFIELD BANK mark outside the New England Territory (as defined in paragraph 14 below).

4. WFC claims to have begun using WESTFIELD BANK as a service mark in connection with "banking; savings and loan services" in Ohio and other states in approximately February 2001. WFC neither uses nor intends to use the WESTFIELD BANK mark in the New England Territory (as defined in paragraph 14 below).

The Applications and Opposition Proceedings

5. On November 6, 2000, WFC filed an intent-to-use federal trademark application (Serial No. 76/159889) to register WESTFIELD BANK in connection with "banking; savings and loan services."

6. On March 23, 2001, WSB filed a use-based federal trademark application (Serial No. 76/229151) to register the 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", and such application is currently in suspension pending the outcome of the WESTFIELD BANK and WESTFIELD GROUP trademark applications filed by WFC and Ohio Farmers, respectively.

7. The Massachusetts Parties filed (i) Notice of Opposition No. 91157514 with respect to Serial No. 76/159889 (WESTFIELD BANK) and (ii) Opposition No. 91153975 with respect to

Serial No. 76/165113 (WESTFIELD GROUP). These oppositions were, upon joint consent motions of the Massachusetts Parties and the Ohio Parties, consolidated under Opposition No. 91153975.

Internet Domain Names

8. On July 10, 2000, WSB registered the domain name "westfieldbank.com" and now operates an Internet web site accessible via that domain name.

9. On July 12, 2000, WFC registered the domain name "westfield-bank.com," which WFC and/or an affiliated company is using in connection with providing banking services.

The Settlement Agreement

10. Each of the Massachusetts Parties, on the one hand, and the Ohio Parties, on the other hand, contends that it has priority to use and register certain trade names, service marks, and/or domain names containing the "Westfield" name in its respective geographic area.

11. Based upon the best information available to the parties, it appears that they have become entitled to use each of their respective marks in their respective geographic areas as a result of their concurrent lawful use in commerce on such goods and in connection with such services, and in such manner, that confusion, mistake, or deception has not resulted from such concurrent use in their respective geographic areas; and, while there has been no actual confusion, mistake, or deception up to this time, the parties desire to take actions necessary to ensure that confusion, mistake, or deception will not likely result in the future from such continued concurrent use in their respective geographic areas.

12. The Massachusetts Parties and the Ohio Parties have agreed to resolve their differences and to settle the controversy between them regarding use and registration of WESTFIELD BANK, and to take actions necessary to ensure that confusion, mistake or deception will not likely result from the continued concurrent use of the respective marks, on the terms and conditions set forth in a Settlement Agreement (the "Agreement"), dated as of December 23, 2004, regarding their respective future concurrent uses of the mark WESTFIELD BANK, key aspects of which are described below.

13. The parties have agreed that each of WSB and WFC shall be permitted to continue to use the WESTFIELD BANK mark in its respective geographic area for banking and savings and loan services subject to the terms and conditions of the Agreement.

14. The Ohio Parties have agreed not to use WESTFIELD BANK for banking and savings and loan services in the New England Territory, and the Massachusetts Parties have agreed not to use WESTFIELD BANK for banking and savings and loan services outside of the New England Territory. Under the Agreement, (i) the "New England Territory" means the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and that portion of the State of New York that lies East of Interstate 81, as depicted on the attached map of New York

State, including New York City and Long Island (see Exhibit A); (ii) "Geographic Territory" means either the New England Territory or the portion of the United States outside of the New England Territory, as the case may be; and (iii) "use" within a specified Geographic Territory means (a) use of the mark in connection with the operation of a branch bank or other physical presence within the specified Geographic Territory, or (b) use of the mark in connection with advertising or other solicitation activities targeting customers or prospective customers in the specified Geographic Territory.

15. Regarding the use of marks on the Internet, the parties have agreed that (i) WSB shall be permitted to maintain its registration of and to use the westfieldbank.com domain name as long as such domain name is not used in connection with advertising or other solicitation activities specifically targeting customers or potential customers outside of the New England Territory, and (ii) the Ohio Parties shall be permitted to maintain their registration of and to use the westfield-bank.com domain name as long as such domain name is not used in connection with advertising or other solicitation activities specifically targeting customers or potential customers within the New England Territory. Notwithstanding the foregoing, the parties have acknowledged and agreed that their respective Internet web sites are and may continue to be accessible to customers located in each other's territories and that any conflict arising from such accessibility shall be addressed through the following procedures set forth in paragraphs 16 and 17.

16. Within sixty (60) days after the effective date of the Agreement, each party will have:

- (i) in order to make certain that there is no likelihood of confusion arising from the parties' respective Internet uses of WESTFIELD BANK in their respective Geographic Territory, altered the first page of their respective web sites for Westfield Bank to prominently state, in equal size: (a) in the case of WSB's web site: "Are you looking for Westfield Bank of Ohio?" with a hyperlink to the Ohio Parties' web site for Westfield Bank; and (b) in the case of the Ohio Parties' web site: "Are you looking for Westfield Bank of Massachusetts?", with a hyperlink to the WSB web site;
- (ii) incorporated reasonably specific geographic and other business identification information into such party's web site home page; and
- (iii) adopted other internal procedures reasonably calculated to identify and redirect incoming web traffic from outside the party's respective Geographic Territory or intended for the other party's web site.

17. The parties will continue to consult each other in good faith to establish and refine procedures for avoiding customer confusion, redirecting misdirected communications, and preserving the separate identities of the parties. The parties will also consult each other before registering and using any additional domain names containing the word "westfield" for banking or savings and loan services.

18. Within fifteen (15) days after the effective date of the Agreement, WSB will have filed an amendment to its federal trademark application to register WESTFIELD BANK to request a concurrent use registration limited to the New England Territory.

19. Within fifteen (15) days after the effective date of the Agreement, WFC will have filed an amendment to its federal trademark application to register WESTFIELD BANK (i) to allege use so as to make such application eligible for a concurrent use registration and (ii) to request a concurrent use registration with respect to the portion of the United States other than the New England Territory.

[Signatures on next page]

WHEREFORE, it is urged that the applicants are entitled to concurrent use registrations of the WESTFIELD BANK mark.

Respectfully submitted,

WESTFIELD SAVINGS BANK d/b/a
WESTFIELD BANK

By its attorney,



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