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

Proceeding	94002212
Party	Applicant Westfield Savings Bank dba Westfield Bank
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Submission	Response to Board Order/Inquiry
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Date	02/26/2009
Attachments	2009-02-26 Westfield Joint Stipulated Response.pdf (11 pages)(693127 bytes)

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

In the matter of:

Westfield Savings Bank
Serial No. 76/229151

Concurrent Use No. 94002212

v.

Ohio Farmers Insurance Company
Registration No. 2992750

v.

Westfield Financial Corporation
Registration No. 3139398

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, Virginia 223131-1451

STIPULATED RESPONSE

The parties, through their undersigned counsel, jointly file this stipulated response to the TTAB's order dated December 13, 2008 (the "Order"). The Order requires that the parties submit an amendment to their Settlement Agreement stating each party's territory of use with the requisite specificity, and further requires that they file a stipulation of dismissal of this concurrent use proceeding with respect to Registration No. 2992750, which is owned by Ohio Farmers Insurance Company.

The parties agree that their Settlement Agreement should be amended to state each party's territory with specificity and without referring to graphical maps. Accordingly, to comply with the Board's requirements, the parties have entered into an Amendment to Settlement Agreement dated as of February 26, 2009, a copy of which is

attached hereto as Exhibit 1. Section 2(a) of the Amendment to Settlement Agreement sets forth the requisite amendment with respect to WESTFIELD BANK.

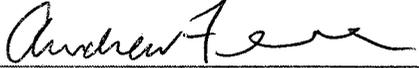
The parties also agree that Registration No. 2992750 for the mark WESTFIELD GROUP was not intended to be subject to any territorial limitations. Accordingly, the parties hereby stipulate that the pending concurrent use proceeding, Concurrent Use No. 94002212, be dismissed with respect to Registration No. 2992750.

Therefore, the parties request that the TTAB and the Commissioner for Trademarks, as appropriate:

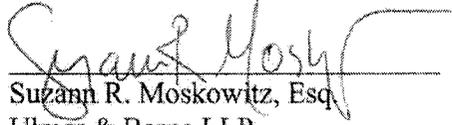
1. Amend the statement of concurrent use with respect to Serial No. 76/229151 to reflect the terms of Section 2(a) of the Amendment to Settlement Agreement filed herewith;
2. Dismiss Concurrent Use No. 94002212 with respect to Registration No. 2992750;
3. Approve applicant Westfield Savings Bank's request for a concurrent use registration of the WESTFIELD BANK mark in Serial No. 76/229151 and terminate Concurrent Use No. 94002212 as to all parties; and
4. Issue a concurrent use registration of the WESTFIELD BANK mark in Serial No. 76/229151 in accordance with the Amendment to Settlement Agreement.

February 26, 2009

Respectfully Submitted,



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Company and Westfield Financial
Corporation

Exhibit 1

AMENDMENT TO SETTLEMENT AGREEMENT

This AMENDMENT TO SETTLEMENT AGREEMENT ("Amendment"), effective as of February 26, 2009 (the "First Amendment Effective Date"), amends that certain Settlement Agreement ("Agreement") dated as of December 23, 2004, by and among Westfield Mutual Holding Company, a Massachusetts chartered mutual holding company ("WMHC"), Westfield Financial, Inc., a Massachusetts corporation ("WFD"), and Westfield Savings Bank d/b/a Westfield Bank, a Massachusetts corporation ("WSB" and, collectively with WMHC and WFC, the "Massachusetts Parties"), each of which is located at 141 Elm Street, Westfield, Massachusetts 01085; and Ohio Farmers Insurance Company, an Ohio corporation located at One Park Circle, Westfield Center, Ohio 44251 ("Ohio Farmers"), and Westfield Financial Corporation, an Ohio corporation located at Two Park Circle, Westfield Center, Ohio 44251 ("WFC" and, collectively with Ohio Farmers, the "Ohio Parties"), both of which are members of the group of Westfield Companies.

WHEREAS, the parties entered into the Agreement to resolve their differences concerning the use and registration of various "Westfield" marks and to agree upon the terms and conditions that will ensure that confusion, mistake, or deception will not likely result from the continued concurrent use of their respective "Westfield" marks;

WHEREAS, in an order dated December 13, 2008 in connection with concurrent use proceeding No. 94002212, the Trademark Trial and Appeal Board required that the parties amend the Agreement to state each party's geographic territory with specificity and without referring to geographical maps;

WHEREAS, the parties desire to amend certain provisions of the Agreement on the terms and conditions set forth in this Amendment;

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions. All capitalized terms used but not defined herein shall have the same meanings herein as such terms have in the Agreement.
2. Amendments to the Agreement. Upon the terms and subject to the conditions of this Amendment, the Agreement is hereby amended as follows:
 - (a) Section 1.2 of the Agreement is amended by adding the following clause to the end of the paragraph: "For purposes of the parties' respective concurrent use registrations of WESTFIELD BANK, (x) WSB's 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, including New York City and Long Island and (y) WFC's territory means all of the United States except for 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, including New York City and Long Island.”

- (b) Section 3.2 of the Agreement is deleted and in its place the following is inserted:

“3.2. The Ohio Parties may continue to use WESTFIELD BANK as a d/b/a name, fictitious name, trade name or mark in accordance with the terms of this Agreement but shall not use or register the WESTFIELD FINANCIAL mark (or any logo version or other variation thereof) in connection with promoting any services to customers and potential customers either inside or outside of the New England Territory. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, the Ohio Parties may use and refer to “Westfield Financial Corporation” as WFC’s official name in regulatory filings, legal notices and related documents, and in other situations in which the Ohio Parties are required or desire to use a legal name to show WFC’s corporate identity, subject to the following conditions: the Ohio Parties (i) shall always use “Corporation” with “Westfield Financial”; (ii) shall not use the name in a stylized form such as a logo; and (iii) shall not use the name as a trademark. For use of the term “Westfield Financial Corporation” in print or electronic marketing publications, the following additional conditions apply: such publications (a) must not specifically target customers or potential customers within the New England Territory; (b) must show the affiliation between or among Westfield Financial Corporation and any of the Ohio Parties; and (c) must include a disclaimer in a reasonably prominent location in a reasonable size font that reads substantially as follows: “Westfield Financial Corporation is not affiliated with Westfield Financial, Inc.” Specifically, and without limiting the foregoing, the Massachusetts Parties will not object to the Ohio Parties’ (1) web page accessible at http://www.westfieldgrp.com/about/about_wffinancial.jsp in its current form as of the First Amendment Effective Date or to substantially similar future versions thereof as long as (x) the text of the blue/gray banner is amended to read “About Us – Westfield Financial Corporation,” (y) the brown wording “Westfield Financial” beneath the banner is deleted, and (z) the disclaimer referred to above is added to the web page and (2) print brochures that are substantially similar in content and format to the “About Us” web page describe above and include the disclaimer referred to above. Neither (1) nor (2) will be deemed a “trademark” use or otherwise violative of this Agreement for purposes of this Section 3.2.”

- (c) Article 4 of the Agreement is deleted and in its place the following is inserted:

“4. Use and Registration of other WESTFIELD marks. Subject to any limitations set forth in Articles 1, 2 or 3 of the Agreement, the Ohio Parties are free to use and/or register “WESTFIELD,” whether alone or in combination with other terms, for any purpose other than banking and savings and loan services, and the Massachusetts Parties will not object to such use or registration. In addition, the Massachusetts Parties acknowledge that the Ohio Parties are currently using certain entity names that include the word “Westfield” but do not include the words “Bank,” “Group,” or “Financial” for various types of insurance, banking, and/or savings and loan services, and that the Ohio Parties shall be free to continue using and/or to seek to register such names in connection with the services that are referred to in such names or currently undertaken by such entities (including, without limitation, insurance, credit, mortgage, title, and escrow services, as the case may be). Such entities include, without limitation: Westfield Insurance Company, Westfield National Insurance Company, Westfield Credit Corporation, Westfield Mortgage Co. LLC, Westfield Title, Westfield Escrow and Westfield Services, Inc. (an agency company). Notwithstanding anything to the contrary contained in this Article 4, the parties acknowledge and agree that Articles 1, 2 and 3 of this Agreement shall govern the parties’ respective rights to use the terms WESTFIELD BANK, WESTFIELD GROUP, WESTFIELD FINANCIAL, and WESTFIELD INSURANCE, and this Article 4 shall not be construed as limiting or otherwise modifying the parties’ rights set forth in Articles 1, 2 or 3.”

- (d) Article 7 of the Agreement is amended by adding the following clause to the end of the paragraph: “In addition, the rights granted to the parties under this Agreement shall include the right of the parties to permit their respective Affiliates (which for purposes of this Article 7 shall not include directors, officers, agents, or employees in their individual capacities) individually or collectively to take such actions as the parties are permitted to take under this Agreement as long as such Affiliates comply with any and all obligations of the applicable party hereunder and the applicable party remains liable for the actions of its Affiliates that exercise such party’s rights hereunder.”
- (e) Section 9.6 of the Agreement is amended to delete the addresses of the parties’ designated representatives for delivery of notices and to substitute the following addresses:

If to the Massachusetts Parties:

Gerald P. Ciejka, Esq.
Vice President and General Counsel
Westfield Bank
141 Elm Street
Westfield, MA 01085
Fax: (413) 564-2686
E-mail: gcejka@westfieldbank.com

With a copy to:

Andrew J. Ferren, Esq.
Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, MA 02110-3333
Fax: (617) 574-7518
E-mail: aferren@goulstonstorrs.com

If to the Ohio Parties:

Frank A. Carrino, Esq.
General Counsel and Secretary
Westfield Group
One Park Circle
Westfield Center, OH 44521-5001
Fax: (330) 887-7500
E-mail: FrankCarrino@westfieldgrp.com

With a copy to:

Suzann R. Moskowitz, Esq.
Michael D. Stovsky, Esq.
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, OH 44113-1448
Fax: 216-583-7359
E-mail: smoskowitz@ulmer.com; mstovsky@ulmer.com

3. Miscellaneous. Except as expressly amended herein, all of the terms and conditions of the Agreement remain unmodified and are confirmed as being in full force and effect. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A facsimile of a signed copy of this Amendment received from a party may be relied upon as an original.

[Signatures on next page]

IN WITNESS WHEREOF, the Massachusetts Parties and the Ohio Parties have executed this Agreement under seal as of the date first set forth above.

MASSACHUSETTS PARTIES:

WESTFIELD BANK f/k/a WESTFIELD SAVINGS BANK

By: *Gerald P. Ciejska*
Name: GERALD P. CIEJKA
Title: Vice President and General Counsel

WESTFIELD FINANCIAL, INC., on behalf of itself and as successor-in-interest to WESTFIELD MUTUAL HOLDING COMPANY

By: *Gerald P. Ciejska*
Name: GERALD P. CIEJKA
Title: Vice President and General Counsel

OHIO PARTIES:

OHIO FARMERS INSURANCE COMPANY

By: _____
Name: _____
Title: _____

WESTFIELD FINANCIAL CORPORATION

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Massachusetts Parties and the Ohio Parties have executed this Agreement under seal as of the date first set forth above.

MASSACHUSETTS PARTIES:

WESTFIELD BANK f/k/a WESTFIELD SAVINGS BANK

By: _____
Name: _____
Title: _____

WESTFIELD FINANCIAL, INC., on behalf of itself and as successor-in-interest to WESTFIELD MUTUAL HOLDING COMPANY

By: _____
Name: _____
Title: _____

OHIO PARTIES:

OHIO FARMERS INSURANCE COMPANY

By: 
Name: FRANK CARRINO
Title: GENERAL COUNSEL + SECRETARY

WESTFIELD FINANCIAL CORPORATION

By: 
Name: FRANK CARRINO
Title: GENERAL COUNSEL + SECRETARY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Stipulated Response was served on the following parties via U.S. Mail this 26th day of February, 2009:

Suzann R. Moskowitz
Michael D. Stovsky
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, OH 44113-1448



Andrew J. Ferren