Operative part

The Court:

1. Dismisses the action as clearly inadmissible;

2. Orders Mr Giuseppe Gargani to pay the costs.

Judgment of the Court of First Instance (Third Chamber) of 21 November 2007 — Wesergold Getränkeindustrie v OHIM — Lidl Stiftung (VITAL FIT)

(Case T-111/06)

Community trade mark — Opposition proceedings — Application for the Community figurative mark VITAL FIT — Earlier national word mark VITAFIT — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 — Right to a fair hearing — Obligation to state reasons

Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 39, 42, 45-47)

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 16 February 2006 in Case R 3/2005-2 relating to opposition proceedings between Lidl Stiftung & Co. KG and Wesergold Getränkeindustrie GmbH & Co. KG.

Information relating to the case

Applicant for the Community trade mark:	Wesergold Getränkeindustrie GmbH & Co. KG
Community trade mark sought:	Figurative mark VITAL FIT for goods in Class 32 — Application No 1457951
Proprietor of the mark or sign cited in the opposition proceedings:	Lidl Stiftung & Co. KG
Mark or sign cited in opposition:	National word mark VITAFIT for goods in Class 32 — Application No 1050163
Decision of the Opposition Division:	Opposition upheld
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Wesergold Getränkeindustrie GmbH & Co. KG to pay the costs.

Order of the President of the Court of First Instance of 22 November 2007 — V v Parliament

(Case T-345/05 R III)

Application for interim measures — Waiver of immunity of a Member of the European Parliament — Application for suspension of operation — No prima facie case