2. Declares that there is no need to rule on the claim for a declaration, pursuant to Article 241 EC, that Council Regulation No 2580/2001 of 27 December 2001 is unlawful;

3. Orders the Council to bear, in addition to its own costs, the costs of Stichting Al-Aqsa;

4. Orders the Kingdom of the Netherlands to pay its own costs.

Judgment of the Court of First Instance (Second Chamber) of 11 July 2007 — Mülhens v OHIM — Cara (TOSKA LEATHER)

(Case T-28/04)

Community trade mark — Opposition proceedings — Application for figurative Community trade mark TOSKA LEATHER — Earlier national word mark TOSCA — Relative grounds for refusal — Well-known trade mark within the meaning of Article 6 bis of the Paris Convention — Article 8(1)(b) of Regulation (EC) No 40/94 — Article 8(5) of Regulation (EC) No 40/94

1. *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 well known in a Member State (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 31, 32)*

2. *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 enjoying a reputation (Council Regulation No 40/94, Art. 8(5)) (see paras 57-59)*

Re:

ACTION brought against the decision of the First Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) of 20 November 2003 (Case R 10/2003-1) concerning opposition proceedings between Mülhens GmbH & Co. KG and Mirco Cara.

Information relating to the case

Applicant for the Community trade mark:	Mirco Cara
Community trade mark sought:	Figurative mark TOSKA LEATHER for goods in Classes 16, 18 and 25 — Application No 1079888
Proprietor of the mark or sign cited in the opposition proceedings:	Mülhens GmbH & Co. KG
Mark or sign cited in opposition:	German word mark TOSCA for perfumery products
Decision of the Opposition Division:	Opposition allowed for products in Class 25 and dismissed as to the remainder
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Mülhens GmbH & Co. KG to pay the costs.