

FOR PUBLICATION

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

ASTRIUM S.A.S.; ASTRUM, LTD.,  
*Plaintiffs-Appellants,*  
v.

TRW, INC.; PILKINGTON Optronics,  
INC.; CORNING NETOPTIX; OFC  
CORPORATION; OPTICAL FILTER  
CORPORATION,

*Defendants-Appellees.*

No. 03-55499  
D.C. No.  
CV-00-01169-DOC

ASTRIUM S.A.S.,  
*Plaintiff,*  
v.

TRW, INC.,  
*Defendant,*  
v.

PILKINGTON Optronics, INC.,  
*Third-party-plaintiff-Appellant,*  
v.

FOKKER SPACE B.V.; DUTCH SPACE  
HOLDING B.V.; FOKKER SPACE &  
SYSTEMS B.V.,  
*Third-party-defendants-Appellees.*

No. 03-56213  
D.C. No.  
CV-00-01169-DOC

ASTRIUM S.A.S., *Plaintiff*,  
v.  
TRW, INC., *Defendant*,  
v.  
CORNING NETOPTIX; OPTICAL FILTER  
CORPORATION,  
*Third-party-plaintiffs-Appellants*,  
v.  
FOKKER SPACE B.V.; DUTCH SPACE  
HOLDING B.V.; FOKKER SPACE &  
SYSTEMS B.V.,  
*Third-party-defendants-Appellees.*

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No. 03-56214  
D.C. No.  
CV-00-01169-DOC

ASTRIUM S.A.S., *Plaintiff*,  
v.  
TRW, INC., *Defendant*,  
v.  
CORNING NETOPTIX; OPTICAL FILTER  
CORPORATION; PILKINGTON  
OPTRONICS, INC.,  
*Third-party-plaintiffs-Appellees*,  
v.  
FOKKER SPACE B.V.; DUTCH SPACE  
HOLDING B.V.,  
*Third-party-defendants-Appellants.*

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No. 03-56378  
D.C. No.  
CV-00-01169-DOC  
ORDER

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Appeal from the United States District Court  
for the Central District of California  
David O. Carter, District Judge, Presiding

Argued and Submitted  
July 24, 2006—Pasadena, California

Filed August 9, 2006

Before: Ferdinand F. Fernandez, Pamela Ann Rymer and  
Richard R. Clifton, Circuit Judges.

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#### **COUNSEL**

Julian Brew, Kaye Scholer, LLP, Los Angeles, California;  
Steven S. Rosenthal (argued), Kay Scholer, LLP, Washington,  
DC, for Astrium, S.A.S. and Astrium, Ltd., appellants.

Robert J. Becher and Fred G. Bennett (argued), Quinn Emanuel Urquhart Oliver & Hedges, LLP, Los Angeles, California, for Northrop Grumman Space & Mission Systems Corp. (formerly known as TRW INC.); Mark R. Irvine and James W. Hunt (argued), Mendes & Mount, LLP, Los Angeles, California, for Pilkington Optronics, Inc.; Ronald A. McIntire and Chung H. Han, Perkins Coie, LLP, Santa Monica, California, for Corning Netoptix, Inc., OFC Corporation, and Optical Filter Corporation, appellees.

Diane W. Wilson, Condon & Forsyth, LLP, New York, New York, for Fokker Space B.V. and Dutch Space Holding B.V., third-party-defendants-appellees.

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#### **ORDER**

Astrium, S.A.S. and Astrium, Ltd. (collectively Astrium)

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appeal the district court's grant of summary judgment on Astrium's tort claims against a number of subcontractors<sup>1</sup> after the alleged failure of solar arrays used to power telecommunications satellites.<sup>2</sup> We dispose of the issues raised therein in a memorandum disposition in which we affirm the district court's ultimate decision in *Astrium I*.

However, we note that the discussion of the merits in the district court's published order was based upon a decision of the California Court of Appeal as set forth in *Robinson Helicopter Co., Inc. v. Dana Corp.*, 129 Cal. Rptr. 2d 682, 684, 697-99 (Ct. App. 2003). That decision was vacated by the California Supreme Court when it granted review. In fact, the decision of the California Supreme Court reached a conclusion opposite to that of the California Court of Appeal. See *Robinson Helicopter Co., Inc. v. Dana Corp.*, 34 Cal. 4th 979, 993-94, 102 P.3d 268, 276, 22 Cal. Rptr. 3d 352, 362 (2004).

Therefore, to avoid confusion, we vacate the portion of the district court's order which set forth the reasons for the district court's decision. That portion appears in part III of *Astrium I*, 254 F. Supp. 2d at 1134-40.

District court order VACATED in part.

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<sup>1</sup>Those are TRW, Inc.; and Corning Netoptix, Inc., Optical Filter Corporation, and OFC Corp. (collectively OFC).

<sup>2</sup>See *Astrium, S.A.S. v. TRW, Inc.*, 254 F. Supp. 2d 1129 (C.D. Cal. 2003) (*Astrium I*).







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