

Fortescue accuses two former executives of 'industrial-scale misuse' of its intellectual property



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Highlight: Andrew Forrest's **Fortescue** Group has asked the court for search order in a stoush with former executives who left to start a rival green iron technology firm.

Body

Andrew Forrest's **Fortescue** Group has accused two former executives of "industrial-scale misuse" of its intellectual property when they left to start a rival green iron technology firm.

The miner has asked the Federal Court for permission to trawl through computers at three properties linked to former employees Michael Masterman and Bart Kolodziejczyk to find evidence to support its claims.

Two of the properties are located in Perth, another is in Melbourne.

Fortescue alleges that confidential information was copied and taken when Masterman and Kolodziejczyk left the company in late 2021.

Soon after leaving the miner, Kolodziejczyk, **Fortescue**'s former chief scientist, and Masterman, a senior executive close to Forrest, founded Element Zero with the aim of reducing the carbon footprint of Australia's most lucrative export industry, iron ore.

Fortescue has positioned itself as a green energy convert, promising to spend \$9.2 billion to eliminate emissions from its mining operations and become a global producer of green hydrogen and iron.

"The allegation at the heart of the proceedings is an alleged 'industrial-scale misuse' of what is said to be, by the **Fortescue** parties, confidential information concerning its 'green [carbon dioxide free] iron' technology," Federal Court judge John Logan said in a summary of the claim.

"It is alleged that this has been utilised in the designing, engineering and construction and operation by the first respondent [Element Zero] of an industrial pilot plant for an electrochemical reduction process."

The court summary also names a third person connected with Element Zero, Bjorn Winther-Jensen.

Element Zero has foreshadowed an application to set aside the search orders. Justice Logan said the application for and execution of the search orders could turn into an "industrial-scale forensic debacle".

[Link to Image](#)

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Alex Ellinghausen

"Element Zero believes this legal action is entirely without merit and welcomes the opportunity to respond to **Fortescue's** spurious claims. Our response will include an application to vary or set aside the original search orders," the company said.

"As Element Zero will demonstrate, its green metals technology was developed independently of and is very different from anything that **Fortescue** is doing or has done in this space. We continue to rapidly advance our technology. As the matter is now before the court, we will not be making further comment at this time," it added.

Masterman and Kolodziejczyk want to build a \$US2.1 billion (\$3.2 billion) green iron ore processing plant in the Pilbara within five years. They raised \$US10 million from investors at the start of the year and have plans for another capital raising later in the year, targeting \$US50 million to \$US100 million.

Fortescue said it was leading the world in developing the cutting-edge solutions to decarbonise its Australian iron ore operations by the end of the decade, and helping the world avert the worst impacts of climate change.

"As a first mover, our intellectual property is critical to our ongoing success in this pursuit and must be protected at all times," a spokesperson said.

"We invest significant resources in creating IP and are committed to vigorously managing and enforcing its protection. As the matter is the subject of legal proceedings, we do not intend to comment further at this stage," they said.

Justice Logan's summary is the only court document available in the case. Hearings are set to resume later this month.

"What needs to be made pellucid is that there is no determination whatsoever of the merits of the claims made by the **Fortescue** parties, or, for that matter, the riposte which has thus far been made on behalf of the respondents," Justice Logan said.

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