



FED:Firm digs in for fight over 'Fortescue secrets' theft

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Body

A renewable resource startup accused of stealing trade secrets from mining giant **Fortescue** is fighting back after reams of material was seized from its offices and the homes of two directors.

The Perth-based firm Element Zero and directors Bartlomiej Kolodziejczyk, Bjorn Winther-Jensen and Michael Masterman are facing Federal Court proceedings over the alleged intellectual property breach.

Fortescue - owned by billionaire Andrew "Twiggy" Forrest - says Dr Kolodziejczyk and Dr Winther-Jensen both worked on developing green-iron technology while at the iron ore-mining giant.

The process was aimed at allowing iron ore to be processed without carbon emissions.

After the pair resigned in late 2021, they collaborated with **Fortescue**'s former chief financial officer Mr Masterman in creating Element Zero.

He is now Element Zero's chief executive.

A media report about the startup prompted an investigation by **Fortescue**, during which the firm hired experts to examine Dr Kolodziejczyk's work laptop.

Private investigator Robert Lancaster was also retained to follow both Element Zero directors from their homes to Perth Airport and elsewhere, including the gym and shopping centres.

While the Federal Court case was filed in April, the proceedings were suppressed until June.

Weeks earlier, the Element Zero directors' homes had been scoured for relevant material.

But that seizure is under attack, with Element Zero and the three directors seeking to either overturn or amend the orders, limiting the material that **Fortescue** can view.

The move was revealed in court documents released on Tuesday.

Fortescue neglected to tell the court key information about its connection with Element Zero or the directors in applying for the orders, their court documents claim.

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More than three terabytes of material had been taken by an order that allowed the indiscriminate capture of "an unduly extensive volume and scope of material", Element Zero's lawyer Michael John Williams wrote.

"The apparent extraordinary invasion of the privacy of the respondents (is) of a kind which exceeds what is usually contemplated in proceedings such as these," he said in an affidavit.

In the lawsuit, Element Zero and the directors have been accused of breach of contract, copyright infringement, breach of corporations and consumer law, and breach of their fiduciary duties.

Fortescue alleges Dr Kolodziejczyk used a USB drive to transfer confidential material and deleted a folder on his computer to hide his tracks prior to departing the firm.

Dr Winther-Jensen is accused of sending company documents to his personal email address in the days after he resigned.

Certain documents regarding **Fortescue**'s green-iron technology were also missing, presumed to have been taken by the two directors, the company alleges.

Fortescue is seeking damages or compensation, which could include any profits gained by Element Zero from the allegedly stolen invention.

Mr Masterman denied the allegations in a statement filed on Element Zero's behalf in June, saying the startup had developed its green-metals technology independently.

The case will next come before the court on August 1, when parties will seek certain further suppression orders.

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