



Fortescue's secret search 'improper'

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Body

Former **Fortescue** executives will try to have a lawsuit alleging they stole the mining giant's intellectual property thrown out for "egregious material nondisclosures" when **Fortescue** won legal permission to launch raids on their homes and offices.

Fortescue won court orders authorising the searches in May, targeting the offices of would-be green steel competitor Element Zero and the homes and computers of company directors - including former **Fortescue** chief scientist Bart Kolodziejczyk and former **Fortescue** staff member Bjorn Winther-Jensen.

Long-term Andrew Forrest lieutenant Michael Masterman, now an Element Zero director, is also a party to the case.

Fortescue sought orders allowing the secret raids after accusing all three men of taking **Fortescue**'s intellectual property with them when they quit the iron ore and would-be green energy giant. Lawyers for Element Zero and its executives on Wednesday flagged a move to have **Fortescue**'s suit struck out, saying the accusations had caused "ongoing reputational damage" to all three men, and the orders were improperly obtained by **Fortescue**.

Appearing for Element Zero, John Hennessy SC told the court the original orders were won on the basis of "the weakest of weak prima facie cases".

"We say the order was improperly obtained, off on the back of what was egregious material non disclosure, and so we don't want it to continue any longer than it must out there in the marketplace," he said.

Mr Hennessy flagged plans to introduce evidence showing **Fortescue** employees had previously met with Element Zero to discuss the company's technology, which it says is not based on any work conducted by the men at **Fortescue**.

The court was told Mr Kolodziejczyk also planned to introduce evidence he was allowed by **Fortescue** to take some documents with him when he resigned.

Fortescue's lawyer told the court the company would "refute" the allegations it won the orders improperly.

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"There was no material nondisclosure," he said.

The computers and electronic devices seized in the raids are currently held at the offices of an independent lawyer, and Element Zero and its directors will also seek to have the original search orders overturned and their property returned.

Details of **Fortescue**'s case, and of the new allegations by Element Zero, remain subject to suppression orders.

The case centres around allegations made by **Fortescue** that Element Zero directors used confidential **Fortescue** intellectual property about **Fortescue**'s carbon-dioxide free green iron technology to found their own company.

The matter will return to court in August.

Mr Masterman this month took aim at the hydrogen technology at the centre of his former employer's "green steel" strategy.

He revealed that key customers in Asia had directly questioned the merits of using -hydrogen to make steel, arguing that Element Zero's technology would be far more energy efficient than rival green steel techniques that involved the use of hydrogen.

Element Zero's technology involves removing many of the impurities in iron ore by running renewable electricity through a chemical -solution. Mr Masterman previously said such an approach would require less renewable energy than rival plans involving hydrogen DRI (direct reduced ironmaking), which require using renewable energy to produce hydrogen then used to process the iron ore.

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