



## **Fortescue can use controversial surveillance to sue former execs; Mining technology**

Australian Financial Review

October 5, 2024 Saturday

Print & First Editions

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**Section:** COMPANIES AND MARKETS; Pg. 21

**Length:** 453 words

**Byline:** Peter Ker

### **Body**

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A group of former **Fortescue** employees has failed to convince a court to throw out evidence gathered through a search of their property, in a ruling that boosts **Fortescue**'s case against the former employees' company Element Zero.

**Fortescue** has accused Element Zero founders Michael Masterman, Bart Kolodziejczyk and Bjorn Winther-Jensen of taking intellectual property from **Fortescue** to advance their green-iron start-up, and **Fortescue** controversially used surveillance then search-and-seizure methods to gather evidence against them. The Federal Court on Friday dismissed attempts by Element Zero to have the search-and-seizure tactics ruled invalid.

**Fortescue**'s use of private investigators was described by Element Zero as a "massive overreach" because the surveillance reports included photographs of children and private homes, and details obtained by rifling through mail and following family members.

In July, **Fortescue** chairman Andrew Forrest distanced himself from the use of private investigators and reports of spying on the children of the Element Zero founders, saying that the surveillance and search raids did not align with the "values" of the mining giant.

But Friday's ruling means evidence seized during the searches that followed the surveillance campaign may be admissible in court when the matter goes to trial. **Fortescue** can also order Element Zero to pay costs.

Federal court judge Brigitte Markovic's reasons for judgment will not be published until next week.

Element Zero is developing a low-carbon method for turning iron ore into higher-value green iron.

All three of the Element Zero founders previously worked in **Fortescue**'s clean energy division, with Dr Kolodziejczyk and Dr Winther-Jensen involved in the scientific work to develop green-iron manufacturing methods.

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Dr Kolodziejczyk has insisted Element Zero's manufacturing methods were developed after he left **Fortescue**, but the miner believes important information was taken from its laboratories. "**Fortescue** remains committed to protecting its intellectual property and investment in green technologies, and looks forward to progressing the matter to a final trial," a **Fortescue** spokesman said on Friday.

A spokesman for Element Zero said the company still believed **Fortescue** had over-reacted by ordering the surveillance. "Element Zero will review the judgment before determining whether to appeal today's decision," he said.

Separately, **Fortescue** has told shareholders Dr Forrest will cast his substantial vote in favour of his re-election - and that of other incumbent directors - if investors vote to spill the miner's board next month. **Fortescue** suffered a "first strike" against its remuneration plan at last year's shareholder meeting.

**Load-Date:** October 7, 2024

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