



FED:Miner's ex-staff defend disputed tech after court loss

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Body

Ex-**Fortescue** staff maintain they developed technology for green steel outside their roles with the mining giant as it lands a major court win in its case for alleged intellectual property theft.

The Andrew "Twiggy" Forrest-controlled iron ore miner is suing the former employees, including a former chief scientist, and their company in the Federal Court.

The court on Friday dismissed an application by the ex-employees to return evidence located during searches of their homes and computers as part of the case.

Justice Brigitte Markovic also ordered the former employees pay **Fortescue's** legal costs for contesting the application.

Fortescue says its ex-chief scientist Bartlomiej Kolodziejczyk and technology development lead Bjorn Winther-Jensen applied green-iron technology they helped develop while working for the miner to form rival startup Element Zero.

The firm is suing the men as well as Element Zero and its chief executive, Michael Masterman, who also previously held a key role with **Fortescue**.

In a statement following Friday's judgment, an Element Zero spokesperson said the group was looking forward to the matter going to trial.

"As Element Zero will demonstrate, its technology was developed independently of **Fortescue**," the statement said.

Mr Masterman said in an affidavit he had maintained relatively regular contact with Mr Forrest after leaving **Fortescue**, including attending parties and the funeral of the billionaire's father.

During that time, neither Mr Forrest nor any of the other **Fortescue** bosses he spoke with raised any concerns about the technology being used by Element Zero, he said.

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In May, Element Zero's offices and Dr Kolodziejczyk and Dr Winther-Jensen's homes were searched under order of Federal Court Justice Melissa Perry and four terabytes of material was seized.

Soon after, the group filed an interlocutory application claiming the search orders were granted on incorrect grounds and seeking to have them overturned and the material returned.

"The original search orders, which were carried out after unprecedented surveillance of Element Zero employees and strangers by private investigators, represented massive over-reach by Fortescue," the Element Zero spokesperson said.

Lawyers for Fortescue labelled the bid to retroactively overturn the search order a "monumental waste of time" and an attempt to avoid properly facing the allegations being levelled at the ex-employees.

In granting the search order, Justice Perry said there was a strong prima facie case from Fortescue and if the searches had been flagged in advance there was a real risk information might be destroyed or "squirrelled away".

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

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

The matter will return to court on October 23 for a case management hearing.

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