



[Fortescue in-house lawyer issued spying orders, court documents reveal](#)

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Highlight: **Fortescue**'s founder Andrew Forrest last month said he had no knowledge of the extensive spying conducted on ex-staff and their families, including children.

Body

Fortescue's senior in-house legal counsel directly instructed a private investigator to spy on its former staff, who were accused of stealing the mining and green energy group's intellectual property.

Fortescue's founder Andrew Forrest last month said he had no knowledge of the extensive spying conducted on ex-staff and their families, including children, and was "surprised to learn of the investigations".

The billionaire, who is the world's 86th wealthiest person according to Bloomberg's Billionaire Index, said he was advised by **Fortescue**'s legal team that the spying was "necessary in order to be granted search orders from the Federal Court," in its case. Forrest's wealth is estimated at \$US22.8 billion (\$35 billion) by [Bloomberg](#).

[Link to Image](#)

Trevor Collens

Forrest issued a warning to his company's external legal team, stating that their engagement was under review because of the investigation's tactics and that they "had an obligation to comply with the company's values".

Fortescue has taken legal action against three former employees, Michael Masterman, Bart Kolodziejczyk and Bjorn Winther-Jensen, in the Federal Court and has accused the men of copying and taking the company's intellectual property when they left to start a rival green iron project called Element Zero.

Masterman, who is Element Zero's chief executive, has called **Fortescue**'s claims "spurious" and said their "green metals technology was developed independently of, and is very different from, anything that **Fortescue** is doing or has done in this space". All three men have denied the allegations.

Late on Friday evening, the Federal Court released a swathe of documents from the case, including details from a 600-page private investigator's report that was commissioned for **Fortescue** by its external lawyers. **Fortescue** had previously tried to suppress the release of that private investigator's report.

The documents, which also included dozens and dozens of photographs from the investigator's surveillance, revealed the extent of the spying conducted on those three former staff members, their children and family members, and other staff at Element Zero.

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It also revealed that Adrian Huber, a senior legal counsel at **Fortescue**, gave direct instructions to Lancasters Investigations to undertake some of the surveillance activities.

"On Tuesday 7 May 2024, Mr Huber instructed Lancasters Investigations to immediately reinstate their surveillance of the below locations in order to locate Dr Kolodziejczyk, and to immediately report to **Fortescue** any sighting of Dr Kolodziejczyk," it was revealed in an affidavit by Paul Dewar.

Dewar is from Davies Collison Cave, the law firm acting for **Fortescue** in the intellectual property case.

Elsewhere in that affidavit, Dewar detailed again Huber's instruction to Lancasters Investigations. "I am informed by Mr Huber and believe it to be true that he today instructed Lancasters to investigate whether Dr Kolodziejczyk and Mr Masterman are presently located in [Western Australia's] Port Hedland or Boodarie. I am informed by Mr Huber and I believe it to be true that he has today examined Dr Kolodziejczyk's Facebook, X and Instagram accounts, and they do not provide any indication as to Dr Kolodziejczyk's present location."

Huber was also included in the correspondence between Lancasters Investigations and external lawyers, as was Phil McKeiver, who was **Fortescue**'s chief general counsel.

McKeiver had last month offered his resignation over the surveillance tactics that were used, but has been retained by **Fortescue**, albeit without his previous responsibility as company secretary.

In Dewar's affidavit, he said it was **Fortescue** that had engaged Lancasters Investigations "with the aim of establishing the identity and location of each of the respondents to the search order application".

The spying that was carried out occurred over a three-week period in April and May this year. It included photographing and following the three men, including to the gym, cafes, to the beach, shopping centres, the airport, the hairdresser, accountant, and other meetings, as well as to their work and homes.

The spying occurred in Melbourne and Perth and included following Kolodziejczyk and his wife to their child's daycare centre. It also included detailing the school times of a teenage family member of Winther-Jensen.

The spying also included details of the arrival of personal mail and packages at the men's home addresses, providing walking maps of routes they took, and floor plans of Kolodziejczyk and Winther-Jensen's homes.

Photos were taken of mail delivered to Masterman's home address, and investigators also searched his rubbish bin. "It was noted the previous mail was still protruding from the mailbox," the investigator's report said of Masterman's house. "Also noted was there were two new letters. A search of the garbage bins noted no new rubbish at this time."

Masterman was surveilled by the private investigator even though he was not a party to the search orders that **Fortescue** would seek in the Federal Court.

Element Zero staff who were also not party to the search orders were also photographed and followed by Lancasters Investigations, and the report details the use of covert cameras to surveil the office.

Fortescue conducted the surveillance to obtain search orders that allowed it to raid Element Zero's office and the homes of Kolodziejczyk and Winther-Jensen, which would result in it gathering almost 3 terabytes of data from company documents and their personal devices, email and cloud accounts.

Element Zero's lawyers have objected to the huge amount of data that was gathered during those raids, claiming there is a substantial amount of confidential and private information that does not relate to the court case.

Element Zero was formed by Kolodziejczyk and Masterman at the end of 2022. Masterman has had a long career in the energy industry, including as chief financial officer of what was then known as **Fortescue** Future Industries (FFI).

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Kolodziejczyk was once FFI's chief scientist and led a push to develop green hydrogen to decarbonise the company's mining operations and shipping fleet. **Fortescue** has since wound down its hydrogen ambitions.

Kolodziejczyk is now Element Zero's chief technology officer. Winther-Jensen also worked as a scientist at FFI before joining Element Zero. He departed Element Zero in January this year.

Element Zero ambition is to reduce the carbon footprint of iron ore, Australia's most lucrative export industry. It has patented a technology that aims to convert metal ores to metals, not only iron ore, with zero carbon emissions.

Fortescue has said it would "vigorously" defend its intellectual property in the development of cutting-edge solutions to decarbonise its Australian iron ore operations by the end of the decade.

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Fortescue executive chairman Andrew Forrest.

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