

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Interlocutory Application - Form 35 - Rule 17.01(1)(a)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 19/09/2025 11:55:14 AM AEST
Date Accepted for Filing: 19/09/2025 12:07:54 PM AEST
File Number: NSD527/2024
File Title: FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: Interlocutory Hearing
Time and date for hearing: 24/09/2025, 10:15 AM
Place: Court Room Not Assigned, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney; Court to be Advised (see Court Lists), Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Amended Interlocutory application

No. NSD 527 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

FORTESCUE LIMITED ACN 002 594 872 and others

Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 and others

Respondents

To the Respondents

The Applicants apply for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

Time and date for hearing:

Place:

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of	Fortescue Limited, Fortescue Future Industries Pty Ltd and FMG Personnel Services Pty Ltd, the Applicants		
Prepared by	Paul Dewar		
Law firm	Davies Collison Cave Law		
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Interlocutory orders sought

1. Pursuant to s 23 of the *Federal Court of Australia Act 1976* (Cth), leave be granted to the Applicants and their representatives to inspect the Listed Things seized pursuant to the search orders of the Court dated 14 May 2024, such inspection to occur in a form and manner to be notified by the Applicants.
2. Pursuant to FCR rule 20.32, by a date to be fixed, each of the Respondents produce to the Applicants those documents referred to in Respondents' lists of documents as notified by the Applicants which ought to have been discovered without any claim to privilege.
3. Pursuant to FCR rules 20.15 and 20.17, by a date to be fixed, each of the Respondents give non-standard discovery of all documents within his/its control within **Annexure A** and responding to the searches set out in **Annexure B** to these orders, other than insofar as any document has already been discovered by that Respondent in this proceeding.
- 3A. Pursuant to FCR rules 20.15 and 20.17, by a date to be fixed, the Respondents give non-standard discovery of all documents within his/its control within **Annexure C**, other than insofar as any document has already been discovered by that Respondent in this proceeding.
- 3B. As to the Applicants' production of the Applicants' discovery document bearing identifier FRT.001.0002189, being Ms Kara Vague's work journal (**Journal**), subject to any claim of privilege, the Applicants be permitted to redact any parts of the Journal that do not fall within the discovery categories in Schedule 3 or 4 to the orders made on 26 February 2025.
4. Such further or other orders as the Court sees fit.
5. Costs.

Service on the Respondents

It is intended to serve this application on all Respondents.

Date: ~~17 June~~ 19 September 2025

A handwritten signature in blue ink, appearing to be 'PD', is located below the date.

Signed by Paul Dewar, DCCL
Solicitor for the Applicants



ANNEXURE A

1. All documents which record any of:

- (a) the “*preliminary work that we have done in ionic liquids and low temperature iron ore reduction*” that Dr Kolodziejczyk referred to in an email to [suppressed name] on 21 October 2020 (see Bhatt AIB-7);

Note: the Third Respondent is not required to give discovery in this category.

- (b) the “*patent application for our low-temperature electrochemical ores reduction in ionic liquid electrolytes*”, being the patent application Dr Kolodziejczyk reported he was “*currently working on*” in the email to Andrew Forrest and Michael Masterman dated 22 December 2020 (see Bhatt AIB-12 p 93), and any drafts thereof;
- (c) the “*R&D roadmap*” that Dr Kolodziejczyk told Chris McMahan, John Paul Olivier and Michael Masterman that he was “*currently developing*” in the email dated 6 January 2021 (see Bhatt AIB-15 p 106), and any drafts thereof.

ANNEXURE B

Category	Search terms	Date
2(a)	<p>(1)</p> <p>[(iron OR Fe OR ferric OR ferrous OR hematite* OR haematite* OR magnetite* OR goethite*) OR ("FeO" OR "Fe2O3" OR "Fe2O3" OR "Fe3O4" OR "Fe3O4")]</p> <p>AND</p> <p>[electrolyte* OR solvent* OR solution* OR "ionic liquid" OR "ionic liquids" OR "ionic mixture" OR "ionic mixtures" OR eutectic* OR hydroxide* OR "KOH" OR "NaOH" OR "LiOH"]</p>	<p>For documents to be discovered by the First, Second and Fourth Respondents: 25 March 2019 to 21 October 2020</p> <p><i>Note: the Third Respondent is not required to give discovery in this category.</i></p>
	<p>(2)</p> <p>[(iron OR Fe OR ferric OR ferrous OR hematite* OR haematite* OR magnetite* OR goethite*) OR ("FeO" OR "Fe2O3" OR "Fe2O3" OR "Fe3O4" OR "Fe3O4")]</p> <p>AND</p> <p>[reduc* OR electroreduc* OR electrowin* OR electrodeposit* OR "Direct Electrochemical Reduction" OR "low temperature" OR "low-temperature" OR "low temp" OR "low-temp" OR "LTE"]</p>	

Category	Search terms	Date
2(b)	<p>(3)</p> <p>[“patent” OR specification* OR “invention disclosure”]</p> <p>AND</p> <p>[(green w/1 (“iron” OR “steel”)) OR ((“iron” OR “Fe” OR “ferric” OR “ferrous” OR “copper” OR “Cu” OR “nickel” OR “Ni” OR metal*) w/5 (oxide* OR ore* OR complex*)) OR (hematite* OR haematite* OR magnetite* OR goethite*) OR (“FeO” OR “Fe2O3” OR “Fe2O3” OR “Fe3O4” OR “Fe3O4”)]</p> <p>AND</p> <p>[electrolyte* OR solvent* OR solution* OR “ionic liquid” OR “ionic liquids” OR “ionic mixture” OR “ionic mixtures” OR eutectic* OR hydroxide* OR “KOH” OR “NaOH” OR “LiOH”]</p>	<p>For documents to be discovered by the First, Second and Fourth Respondents: 1 December 2020 to 12 November 2021</p> <p>For documents to be discovered by the Third Respondent: 15 February 2021 to 12 November 2021</p>
	<p>(4)</p> <p>[“patent” OR specification* OR “invention disclosure”]</p> <p>AND</p> <p>[(green w/1 (“iron” OR “steel”)) OR ((“iron” OR “Fe” OR “ferric” OR “ferrous” OR “copper” OR “Cu” OR “nickel” OR “Ni” OR metal*) w/5 (oxide* OR ore* OR complex*)) OR (hematite* OR haematite* OR magnetite* OR goethite*) OR (“FeO” OR “Fe2O3” OR “Fe2O3” OR “Fe3O4” OR “Fe3O4”)]</p> <p>AND</p> <p>[reduc* OR electroreduc* OR electrowin* OR electrodeposit* OR “Direct Electrochemical Reduction” OR “low temperature” OR “low-temperature” OR “low temp” OR “low-temp” OR “LTE”]</p>	



Category	Search terms	Date
2(c)	<p>(5)</p> <p>[("research" OR develop* OR "R&D") w/5 ("roadmap" OR "road map" OR "road-map" OR plan OR write-up* OR writeup* OR "write up")]</p> <p>AND</p> <p>[(green w/1 "steel") OR ("iron" OR "Fe" OR "ferric" OR "ferrous" OR hematite* OR haematite* OR magnetite* OR goethite*) OR ("FeO" OR "Fe2O3" OR "Fe2O3" OR "Fe3O4" OR "Fe3O4")]</p>	<p>For documents to be discovered by the First, Second and Fourth Respondents: 6 January 2021 to 12 November 2021</p> <p>For documents to be discovered by the Third Respondent: 15 February 2021 to 12 November 2021</p>

ANNEXURE C

15. (As against all Respondents) All versions (including drafts) of documents recording work, research or development during the period November 2021 and December 2021 and that would otherwise fall within the description in Category 11(e) or 11(f) of Schedule 1 to the orders made on 26 February 2025.
16. (Against the Third Respondent only) Documents in the following subfolders in the “Toshiba Desktop 23-10-21” folder in the Toshiba hard disk referred to as “24EA019BC” in the affidavit of the independent lawyer, Stephen Klotz, affirmed on 29 May 2024, including all subfolders within the following subfolders:
- (a) “FFI electrochem”;
 - (b) “FFI inventions”;
 - (c) “FFI pics”;
 - (d) “FFI planing”;
 - (e) “FFI Purchase admin”;
 - (f) “Flow cell”;
 - (g) “Green iron presentations”;
 - (h) “Green Steel”;
 - (i) “Grinding and Leaching”.
17. (As against all Respondents) All documents recording or evidencing any use or disclosure of any one or more of the documents in Category 16 above by any one or more of the Respondents or their agents.
18. (As against all Respondents) All documents recording or evidencing communications between any of the Respondents and NewPro, in relation to:
- (a) the project referred to as the “Green Metals” project;
 - (b) NewPro contract number “10182-0000-CS-CTC-0001”;
 - (c) NewPro reference “10182”;
 - (d) the project referred to as the “BKM” project;
 - (e) the project referred to as the “Green Metals” project, “phase 2”;



- (f) NewPro contract number "10202-0000-CS-CTC-0001";
 - (g) NewPro reference "10202";
 - (h) the project referred to as the "Pilot Plant" project; or
 - (i) NewPro reference "10260".
19. (As against all Respondents) All documents and all documents recording the information communicated or provided by any of the Respondents to NewPro in connection with any of the matters in Categories 18(a)–18(i) above.
20. (As against all Respondents) All documents recording or evidencing communications between any of the Respondents and David Arnall, in relation to:
- (a) the Element Zero Process (referred to in paragraph 29 of the EZ Parties' defence and/or in paragraphs 29(b)-(c) of Dr Winther-Jensen's defence);
 - (b) the development of a trial or pilot plant for Element Zero; or
 - (c) services provided or to be provided by Mr Arnall to or for Element Zero.
21. (As against all Respondents) All documents recording or evidencing communications between any of the Respondents and Robert Kerr, in relation to:
- (a) the Element Zero Process (referred to in paragraph 29 of the EZ Parties' defence and/or in paragraphs 29(b)-(c) of Dr Winther-Jensen's defence);
 - (b) the development of a trial or pilot plant for Element Zero; or
 - (c) services provided or to be provided by Dr Kerr to or for Element Zero, including the provision of data or information.
22. (As against all Respondents) All documents in relation to "BWJ Materials Consulting".



Schedule

No. NSD 527 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicants

Second Applicant:

FORTESCUE FUTURE INDUSTRIES PTY LTD

ACN 625 711 373

Third Applicant:

FMG PERSONNEL SERVICES PTY LTD

ACN 159 057 646

Respondents

Second Respondent:

BARTLOMIEJ PIOTR KOLODZIEJCZYK

Third Respondent:

BJORN WINTHER-JENSEN

Fourth Respondent:

MICHAEL GEORGE MASTERMAN