

## CHAPTER XI

### DEATH SQUAD

1997–1998

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Although the ‘death warrant’ against innocent investors had been signed and issued on Wednesday, 26 February 1997, in the form of Justice Spender’s Reasons for Judgment, the ‘Order to kill’ was not given until almost three months later. This Order was read out from a document titled, “Judge Making Order”. For the moment, however, I’ll explain the warrant itself before moving through the Order and beyond.

----- [Excerpt] -----

#### Judge’s False Statement

2. *“Both patents recorded in the name of Willem Van der Horst as owner, being Australian Patent Nos 606728 and 639347 are both in force and can be renewed until 3 August 2008 and 21 May 2011 respectively.”*

#### Response to Judge’s False Statement – 2

We were all shocked that a judge of the Federal Court of Australia could possibly go to print with a statement as blatantly false as this one.

I immediately wrote to Mr Greg Turner of Spruson & Ferguson, Patent Attorneys, asking him to confirm my understanding that both the VDH patents had expired. He faxed me on 7 May 1997 (Appendix “25”) advising me that patent No. 606728 had expired on 7 March 1996 some five weeks before trial and patent No. 639347 had expired on 9 January 1997, six weeks before Spender J brought down his Reasons for Judgment. The judge had lied; but why so blatantly?

And then it became apparent to all of us that this particular lie would serve as the judge’s base; a base upon which he could firstly give veracity to the Pizzey “stitch-up” – more later – and thereafter, from which he could launch a barrage of fabricated statements throughout his judgment – as he did. And to reinforce this attack, Spender J needed desperately to convince everyone that the two VDH patents were not only in force but that they were **valid**. Whereas he knew full well that they were **invalid**, given the existence of the expired Walker E. Rowe US patent.

Spender J had been flogged at every turn during the course of trial by Dr Ian de Jonge and Mr Trevor Dredge, both eminent patent attorneys. By the end of trial our judge had nowhere to move. His only hope of protecting ACCC and AGS officers, and VDH, was to dismiss the written and oral testimonies of Dr de Jonge and Mr Dredge; dismiss the findings of Janet Werner, the (Acting) Deputy Commissioner of Patent Examination, AIPO – Patent Office; dismiss the efforts of Justice Drummond, also a judge of the Federal Court of Australia, and then blatantly lie his way through the judgment.

And who’s going to challenge him? The judge knew we couldn’t afford an appeal.

----- [Excerpt] -----

**Judge’s False Statement**

12. *“I have no doubt that the marketing programme of the franchises is a scam...”*

Response to Judge’s False Statement – 12

What does a judge do when the evidentiary material before him, in both written and oral form, has not provided the weapon needed to protect government officers within the ACCC and AGS from criminal prosecution and possible class actions? Nor is there any hope of using a single piece of evidence to support the protection of the ACCC’s complainant, VDH, and that must be done if government officers are to be vindicated.

All Spender J has in front of him are the irrefutable facts supplied by expert witnesses which testify to the valid and patentable nature of the Europark technology and the

corresponding right of International Technology Holdings Pty Ltd (ITH) to offer worldwide manufacturing and marketing rights to its wholly owned subsidiary Europark International Pty Ltd which, as a result, can lawfully appoint master franchisees, international licensees and manufacturing licensees.

But when you're a federal court judge you don't need to let facts impede your direction. Your power is absolute. If you have a job to do, no matter how damaging the ramifications are for the innocent, then do it. And Spender J did it with the **callousness of tyranny too often witnessed within the conduct of the Australian Judiciary.**

**Summary of Feelings**

Imagine, for just a few moments, that you have invested a quarter of a million dollars of your family savings into a mechanical carparking project which was, during the first four and a half years of development, plagued with violent intervention on the part of a fraudulent inventor. Nonetheless, you shared in the joy of winning World Bank funding for your European manufacturers and took pride in seeing the company you had invested in being awarded the highest export market development grant (EMDG) available in our nation.

You then derived a deep sense of achievement by working tirelessly to develop your franchise business in a designated international territory. But now for the past three years, you, along with many others, have been forced to endure a federal court battle based on the lies and deception of government officers as they move vigorously to support that fraudulent inventor. Fortunately, expert witnesses testify continuously in your company's favour, giving you hope that life can continue as it should. You eagerly await the results of trial.

After ten agonizing months, enter Justice Spender. He slams all of you with his litany of vile fabricated reasons for his judgment which culminates in the world being told that your franchise marketing program is nothing more than a scam. And I say, "your", because you, along with others, assisted in the development of that program.

If you have truly put your feet in the shoes of a franchisee, or investor, or mine for that matter, there will be a gut-wrenching, sickening feeling that begins to overwhelm you. But brace yourself, the worst is yet to come. The judge has only issued the death warrant. The Order to kill is yet to be given.

----- [Excerpt] -----