

## Dent Bio

Chris has been an Associate Professor at Murdoch University School of Law since January 2015. Prior to that, he had, for 12 years, had a research-focused position at Melbourne Law School – mostly at the Intellectual Property Research Institute of Australia (IPRIA). Much of his work focuses on the history and theory of intellectual property. He also took advantage of the relative academic freedom to use a wide variety of research methods to examine the operation of the law. Before he started at IPRIA, he carried out research into defamation law at the Centre for Media and Communications Law; which, in turn, was after doing work for the Law Reform Commission of Western Australia and the Victorian Law Reform Commission. His underlying critical approach was born while undertaking his PHD – an application of Foucault’s archaeological method to a history of negligence decisions.

### **The Shifting Conception of the “State” and the “Public Good” in the Use of Military Patents in Seventeenth and the Nineteenth Century England**

ISHTIP Abstract – Chris Dent

A key, but underexplored, aspect of the “circulation/control dilemma” is the use of patented products by the State itself. In these circumstances, the State both grants the right and has a specific interest in its exploitation. Some work has been done on the Crown use provisions, however, there has been very little work on the treatment of patents over military equipment. This paper will contrast the role of “military patents” in the early modern period with the nineteenth-century legislative provisions relating to them in order to explore the shifts in the understanding of the State inherent in the two forms of the patent system.

As examples, in the sixteenth and seventeenth centuries, there were several patents over saltpetre, sulphur and lead prior to the passing of the *Statute of Monopolies 1624* and the Statute itself included an exemption for such patents (s. 10). Given the non-innovative nature of these products, the patents were, therefore, to maintain supply, and quality, rather than promoting innovation. Further, the grants were to the inner circle of the Crown (including a 1618 patent for sword-blades to Prince Charles’ Secretary). The 1883 Act, on the other hand, allows for the assignment of the benefit of inventions over instruments or munitions of war to

the War Department – with a number of provisions around the secrecy of such inventions – thus showing a more modern understanding of the relationship between patentees and the State.

The shift from exceptions to assignments demonstrates a change in the nature of the State. Both modes de-emphasised circulation – but the modes of control were different. This analysis, based on Foucault’s understanding of the shifts in governance, builds on the understanding that the early modern State was both limited and centralised, whereas the nineteenth-century one relied upon expertise-informed outputs of independent economic agents. This change is telling for our understanding of the development of the patent system in terms of the parallel development of the forms of governance.

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## **Chris Dent CV**

### ***Education***

PhD (Law) – Murdoch University (2003): Reflecting on Continuity and Discontinuity in “The Law”: An Application of Foucault’s Archaeological Method in a Reading of Judicial Decisions in Negligence

LLB/BA (Honours in Politics) – Murdoch University (1997)

### ***Academic Positions***

2015- Associate Professor, School of Law, Murdoch University  
2003-2014 Research Fellow, University of Melbourne  
Intellectual Property Research Institute of Australia (IPRIA) and  
Centre for Media & Communications Law, University of  
Melbourne

### ***Selected Refereed Journal Articles***

Dent, C. – Decisions around Innovation and the Motivators that Contribute to Them: Patents, Copyright, Trade Marks and Know-how. *Queen Mary Journal of Intellectual Property* 6(4) (2016) 457-75.

Dent, C. – The Rise in References to ‘Knowledge’ in 19<sup>TH</sup> Century English Law. *Legal History* 16(1) (2016) 27-58.

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Dent, C. – ‘Legal Academics, Our Creativity and Why We do it: Insights from Foucault’. *Law Teacher* 48(3) (2014) 1-19.

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- Arup, C., Dent, C., Howe, J. & van Caenegem, W. – Restraints of Trade: The Legal Practice. *University of New South Wales Law Journal* 36(1) (2013) 1-29.
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- Weatherall, K., Rotstein, F., Dent, C. & Christie, A. – Patent Oppositions in Australia: The Facts. *University of New South Wales Law Journal* 34(1) (2011) 93-135.
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- Christie, A. & Dent, C. – Non-Overlapping Rights: A Patent Misconception. *European Intellectual Property Review* 32(2) (2010) 58-66.
- Dent, C. – Copyright as (Decentred) Regulation: Digital Piracy as a Case Study. *Monash University Law Review* 35(2) (2010) 348-375.
- Dent, C. – “Generally Inconvenient”: The 1624 *Statute of Monopolies* as Political Compromise. *Melbourne University Law Review* 33(2) (2009) 415-453.
- Hall, E., Dent, C. & Christie, A. – Patent Attorney Privilege in Australia: Options for Reform. *Australian Intellectual Property Journal* 20(3) (2009) 178-193.
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