

# Session ten: Copyright, licensing, and intellectual property

LBSCI 730 Archival Appraisal, Arrangement, and Access



# Physical custody

Possession, care, and control, especially for security and preservation.

Often paired with legal custody, where intellectual property rights are decided in addition to physical custody rights.

# Intellectual property

A type of property representing works of the mind governed by copyright, patent, and trademark law.

# Patent

(new inventions, processes, and compositions of matter, such as medicines)

The exclusive right to make, use, or sell an invention that is novel, useful, and not obvious.

The Constitution grants the United States Congress the authority to issue patents. Patents are codified in 35 USC 101-103.

# Sustained release of guaifenesin combination drugs

Patent	US-8012504-B2
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Assignee	RECKITT BENCKISER INC (US)
Country	United States
Dates	Priority: Grant: 2000/04/28 2011/09/06
Description	This web page summarizes information in PubChem reported by PubChem contributors, as well as other codes. To read more about how this page was created, see the <a href="#">PubChem</a> description page.

## 1 Abstract

The invention relates to a novel pharmaceutical modified release formulation of guaifenesin and preferably a hydroxypropyl methylcellulose, and a water-insoluble polymer, preferably an acrylic acid copolymer, more preferably a range of about three-to-two (3:2) to about six-to-one (6:1), and most preferably a range of about three-to-one (3:1) to about six-to-one (6:1). This formulation capable of providing therapeutically effective bioavailability of guaifenesin from a modified release product which has two portions: a first portion having an immediate release

[PubChem](#) [Google Patents](#)



US008012504B2

### (12) **United States Patent** **Davis et al.**

(10) **Patent No.:** **US 8,012,504 B2**  
(45) **Date of Patent:** **\*Sep. 6, 2011**

- (54) **SUSTAINED RELEASE OF GUAIFENESIN COMBINATION DRUGS** 4,540,566 A 9/1985 Davis et al.  
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4,871,548 A 10/1989 Edgren et al.
- (75) Inventors: **Robert D. Davis**, Arlington, TX (US);  
**Ralph W. Blume**, Fort Worth, TX (US);  
**Donald Jeffrey Keyser**, Southlake, TX (US)
- (73) Assignee: **Reckitt Benckiser Inc.**, Parsippany, NJ (US)
- (\* ) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 335 days.

This patent is subject to a terminal disclaimer.

- (21) Appl. No.: **10/413,530**
- (22) Filed: **Apr. 15, 2003**
- (65) **Prior Publication Data**  
US 2003/0215508 A1 Nov. 20, 2003

- Related U.S. Application Data**
- (63) Continuation-in-part of application No. 10/406,557, filed on Apr. 4, 2003, and a continuation-in-part of application No. 10/406,574, filed on Apr. 4, 2003, which is a continuation-in-part of application No. 10/121,706, filed on Apr. 15, 2002, now Pat. No. 6,955,821, which is a continuation-in-part of application No. 09/559,542, filed on Apr. 28, 2000, now Pat. No. 6,372,252.

- (51) **Int. Cl.**  
**A61K 9/22** (2006.01)

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(Continued)

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## CONTENTS

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13 Information Sources

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# Trademark

(names, short slogans, or logos)

A word, phrase, or design used to distinguish a manufacturer's or seller's product.



● **Live/Registered  
REGISTERED AND  
RENEWED**  
on 02 Jan 2020

Last Applicant/ Owned by

**RB HEALTH (US) LLC**

399 INTERPACE PARKWAY  
PARSIPPANY  
NJ  
07054

Serial Number

77770135 filed on 29<sup>th</sup> Jun 2009

Registration Number

3722363 registered on 08<sup>th</sup> Dec 2009

## MUCINEX

Pharmaceutical preparation for the relief of respiratory symptoms due to common cold or flu, namely, an expectorant

### Classification Information

#### Class [005]

Pharmaceutical Products

Pharmaceutical preparation for the relief of respiratory symptoms due to common cold or flu, namely, an expectorant

First Use Date in General

31<sup>st</sup> Jul 2007

First Use Date in Commerce

31<sup>st</sup> Jul 2007

### Mark Details

Serial Number

No 77770135

Attorney Docket Number

No 104888-0737

44D Current

Mark Type

No Service/Collective Mark

44D Filed

No

44E filed

[Trademarkia](#)



# Copyright

(original works, such as art, literature, or other created work)

A legal right protecting the interests of creators or their assignees by granting them control over the reproduction, publication, adaptation, exhibition, or performance of their works in fixed media.



Labeled View

*Mr. Mucus.*

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**Entire Copyright Document:** V3540 D906 P1-9  
**Title:** Mr. Mucus.

**Title appears in Document:**

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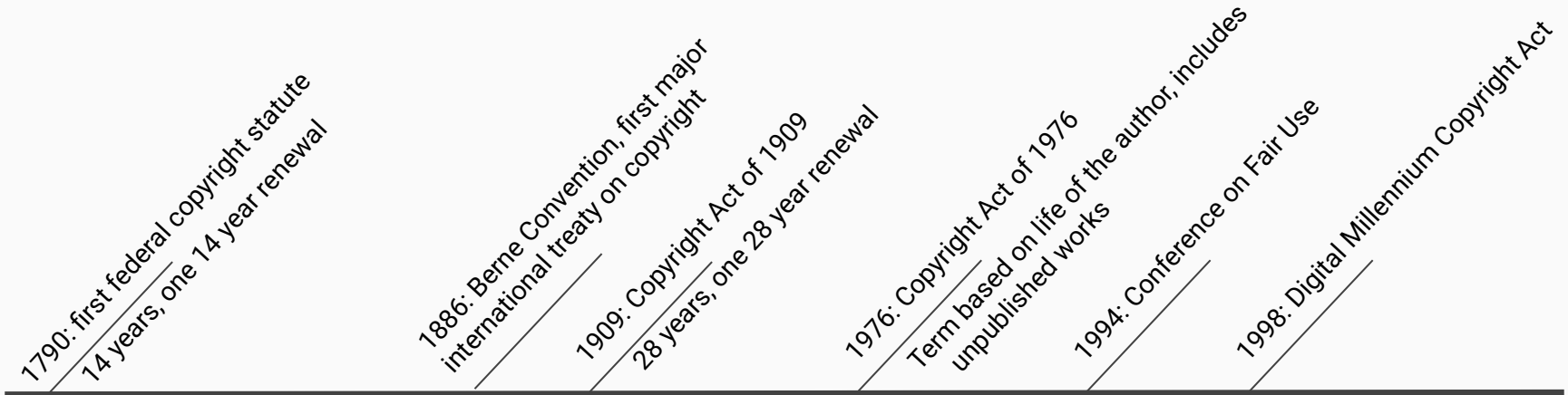
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“To promote the Progress of Science and useful Arts,  
by securing for limited Times to Authors and  
Inventors the exclusive Right to their respective  
Writings and Discoveries.”

Article I, Section 8 of the U.S. Constitution

# US Copyright timeline



1790: Maps, charts,  
books

1870: dramatic works, pantomimes, paintings, drawings,  
and sculpture

1856: Dramatic  
public performance

1891: US protection for foreign works

1912: Movies

1990: Architecture works

1865: Photographs  
and negatives

1972: Sound recordings

What types of work are protected by copyright?

- Literary works
- Musical works, including any accompanying words
- Dramatic works, including any accompanying music
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural work

What are the prerequisites for a work to be protected by copyright?

1. The work or subject matter must fall within a category of material protected by the Copyright Act
2. Copyright must subsist in that particular work or subject matter, having regard to its:
  - a. originality,
  - b. authorship, and
  - c. fixity
3. Copyright must not have expired



**Originality**, not aesthetic merit, is the basis for copyright protection. Even banal images and writings are eligible for copyright protection, so long as they meet the threshold requirements.

**Authorship** refers to the source of the original copyrightable work.

**Fixity** (or “Fixed in a tangible medium of expression”) means that that work was actually expressed (not just a thought/idea, but written down/produced in some manner).

What is the duration of copyright?

Copyright is a **limited right of fixed duration.**

Once copyright expires, works enter the public domain and may be dealt with without obtaining any copyright permissions.

# Public domain

The realm of works that are unprotected by copyright or other intellectual property rights.

1. Unpublished (never published, never registered) works
2. Works first published in the United States
3. Works first published abroad
4. Sound recordings
5. Architectural works

## Works Registered or First Published in the U.S.

Date of Publication <sup>6</sup>	Conditions <sup>7</sup>	Copyright Term <sup>3</sup>
<b>Before 1929</b>	None	None. In the public domain due to copyright expiration
<b>1929 through 1977</b>	Published without a copyright notice	None. In the public domain due to failure to comply with required formalities
<b>1978 to 1 March 1989</b>	Published without notice, and without subsequent registration within 5 years	None. In the public domain due to failure to comply with required formalities
<b>1978 to 1 March 1989</b>	Published without notice, but with subsequent registration within 5 years	70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first
<b>1929 through 1963</b>	Published with notice but copyright was not renewed <sup>8</sup>	None. In the public domain due to copyright expiration
<b>1929 through 1963</b>	Published with notice and the copyright was renewed <sup>8</sup>	95 years after publication date
<b>1964 through 1977</b>	Published with notice	95 years after publication date

## Never Published, Never Registered Works<sup>2</sup>

Type of Work	Copyright Term	In the public domain in the U.S. as of 1 January 2024 <sup>3</sup>
<b>Unpublished works</b>	Life of the author + 70 years	Works from authors who died before 1954
<b>Unpublished anonymous and pseudonymous works, and works made for hire (corporate authorship)</b>	120 years from date of creation	Works created before 1904
<b>Unpublished works when the death date of the author is not known<sup>4</sup></b>	120 years from date of creation <sup>5</sup>	Works created before 1904 <sup>5</sup>



Who is the owner of copyright?

**1. Who is the “author” or “maker” of a work?**

2. What happens when there is more than one author?

3. Who owns copyright in material produced by employees, contractors, and volunteers?

**4. How is copyright transferred to third parties?**

What are the copyright owner's exclusive rights?

**1. Reproduction**

**2. Preparation of derivative works (such as adaptations)**

**3. Distribution**

4. Public performance (for literary, musical, dramatic, and choreographic works, pantomimes, motion pictures, and other audiovisuals)

5. Public display (for literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work)

6. Public performance of sound recordings via digital audio transmission

# Exemptions to exclusive rights:

Allows individuals to exercise one of the exclusive rights of copyright

- **without obtaining the permission** of the copyright owner, and
- **without the payment** of any license fee.

# Fair Use

Section 107 of Copyright Act of 1976

A provision in copyright law that allows the limited use of copyrighted materials without permission of the rights holder for noncommercial teaching, research, scholarship, or news reporting purposes.

[Fair use checklist](#)

# Reproduction by libraries and archives

Section 108 of Copyright Act of 1976

A provision in copyright law that allows for a library or archives to make a certain number of copies of a copyrighted work for preservation or access reasons.

1. the reproduction or distribution is made without any purpose of direct or indirect commercial advantage
2. the collections of the library or archives are open to the public or available not only to researchers affiliated with the library or archives, but also to other persons doing research in a specialized field
3. the reproduction or distribution of the work includes a notice of copyright.



# Permissions

Licensor grants a third-party licensee a license to use a work.

Includes both physical and intellectual property rights.

Permissions are often tied to conditions of use, such as the requirement that any reproduction of material include the name of the repository.

# License

Permission or right granted to an individual or organization to enter into a transaction, business, or occupation, or to take an action (allowing a non-copyright holder to use, publish, and/or make money from the copyrighted item).

# Creative Commons

A type of license, built on copyright, that provides a standardized way for creators to give others the right to share and use their work.



# Creative Common licenses

Copyright status: in copyright (CC) or public domain (0)

Attribution status: credit must be given to the creator (BY)



Adaptation status: no derivatives or adaptations of the work are permitted (ND) or adaptations must be shared under the same terms (SA)

Commercial status: only noncommercial uses of the work are permitted (NC)

What are the risks to digitized access efforts?

1. The copyright status of the work may be unclear
2. It may not be possible to identify all of the subsisting copyrights incorporated into one work
3. It may not be possible to locate copyright owners and secure permission
4. Works that are in the public domain in the United States may be protected by copyright in other countries
5. Individuals and groups may believe they have more rights in material than the law allows, and take umbrage when an institution digitizes the materia

What is the archivist's role in protecting copyright and intellectual property rights?



# Open access

The principle that access to archival resources should not be restricted unnecessarily.

