

# EXHIBIT 10

02:40PM **1 NuMark, and obviously we're talking about, you know, two of the**  
 02:40PM **2 patents in this case that I have comparability on, the '911 and**  
 02:40PM **3 '265.**  
 02:40PM **4 But Fontem saying, about these other licensees, that**  
 02:40PM **5 Fontem's representing and warrants to the licensee, which is**  
 02:40PM **6 NuMark, that all license arrangements prior to the effective**  
 02:40PM **7 date -- this date is December of 2016 -- that basically they've**  
 02:40PM **8 been subject to, A, a running royalty at a rate equal to or**  
 02:40PM **9 higher than the rate set forth on the cover page hereof, and**  
 02:40PM **10 that's the 5-and-a-quarter percent. So it's Fontem telling**  
 02:40PM **11 NuMark, everybody else is paying 5-and-a-quarter percent.**  
 02:40PM **12 Q.** So, the top of section 6.10.9 there's "all licensed  
 02:40PM **13 arrangement." That's referring to those prior nine agreements**  
 02:41PM **14 that you discussed earlier?**  
 02:41PM **15 A. That's my understanding.**  
 02:41PM **16 Q.** And what are the patents, again, that are associated with  
 02:41PM **17 this running royalty rate of 5.25 shown on Slide 25?**  
 02:41PM **18 A. It's the Fontem portfolio, which includes, you know, two**  
 02:41PM **19 patent families comparable to two patents in this case.**  
 02:41PM **20 Q.** Now, have you seen any evidence, Mr. Meyer, that any of  
 02:41PM **21 these prior Fontem licensees actually paid that 5.25 percent**  
 02:41PM **22 royalty?**  
 02:41PM **23 A. Well, I never saw the licenses, so I haven't seen those.**  
 02:41PM **24 So I'm always looking for ways to corroborate things, you know,**  
 02:41PM **25 can I check it some other way? So I went back to the Reynolds**

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02:41PM **1 negotiating documents, the 200 documents that were produced by**  
 02:41PM **2 Reynolds from its files, and I said, "What's in here that may**  
 02:41PM **3 give me some assurance that what Fontem told NuMark was**  
 02:41PM **4 accurate?"**  
 02:41PM **5 And so I went to the September 8th, 2018 revisions from**  
 02:41PM **6 Reynolds -- this is Reynolds speaking to us -- and Reynolds is**  
 02:42PM **7 reporting, the range of royalty rates previously negotiated by**  
 02:42PM **8 Fontem, a number of which are based on 5-and-a-quarter percent**  
 02:42PM **9 of net sales.**  
 02:42PM **10 So this is Reynolds telling all of us here in court that**  
 02:42PM **11 they understood that Fontem had told them that a number of those**  
 02:42PM **12 licensees in the nine are paying 5-and-a-quarter percent.**  
 02:42PM **13 That's what it tells us.**  
 02:42PM **14 Q.** And what you're reading from, Mr. Meyer, that's PX 677,  
 02:42PM **15 is that the same September 8th draft agreement that we walked**  
 02:42PM **16 through earlier today?**  
 02:42PM **17 A. Yes, sir.**  
 02:42PM **18 Q.** Now, did you use that 5.25 percent as the starting point  
 02:42PM **19 for your analysis?**  
 02:42PM **20 A. It was the starting point. It's my testimony that based**  
 02:42PM **21 upon market prices, market rates, these three sources give us --**  
 02:42PM **22 because we have comparability to the '911 and '265, they give us**  
 02:42PM **23 a starting point rate to use to figure out the royalty in this**  
 02:42PM **24 case.**

02:43PM **1** ultimate reasonable royalty that you calculated?  
 02:43PM **2 A. No, because I knew that that portfolio was broader, so I**  
 02:43PM **3 had to go deeper and apportion that 5-and-a-quarter percent**  
 02:43PM **4 downwards.**  
 02:43PM **5 Q.** Okay. Well, let's go to Slide 28, and you have a table  
 02:43PM **6 here with three columns and they're labeled A, B, and C. Can**  
 02:43PM **7 you just walk the jury through each one of these and how you**  
 02:43PM **8 went about apportioning the 5.25 percent rate?**  
 02:43PM **9 A. So we obviously have the two patents, and our starting**  
 02:43PM **10 point is 5-and-a-quarter percent, but we know that includes more**  
 02:43PM **11 patented technology than these two patents, and so**  
 02:43PM **12 Mr. McAlexander, who I listened to testify today, I worked with**  
 02:43PM **13 him on this and he -- because he's an engineer, he went in and**  
 02:43PM **14 he analyzed that Fontem portfolio -- he described that to the**  
 02:43PM **15 jury this morning -- and he provided these apportionment**  
 02:43PM **16 factors.**  
 02:43PM **17 And he told me that for the '911, that basically that**  
 02:44PM **18 matches up to 35 percent of the 5-and-a-quarter percent and that**  
 02:44PM **19 for the compact heater, the '265, it's 10 percent, so he gives**  
 02:44PM **20 me the apportionment based on his analysis so I can reduce that**  
 02:44PM **21 5-and-a-quarter downwards, so I'm only focusing on the amount**  
 02:44PM **22 that relates to the two patents in this case.**  
 02:44PM **23 Q.** And then Column C is entitled "Baseline Royalty Rate."  
 02:44PM **24 Can you just briefly explain what that is?**  
 02:44PM **25 A. Right. So now I've taken our comparable licenses that**

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02:44PM **1 are technically comparable -- I think both sides agree on**  
 02:44PM **2 that -- and I'm making them economically comparable, so I went**  
 02:44PM **3 through and identified the 5-and-a-quarter. I'm now matching it**  
 02:44PM **4 up so I can tell the Court that that's the baseline royalty rate**  
 02:44PM **5 before I look at all the other Georgia-Pacific factors. I've**  
 02:44PM **6 got to go back and see if any other factors impact that rate**  
 02:44PM **7 upwards or downwards, because once again we're back in the**  
 02:44PM **8 hypothetical. We have a starting point baseline, but now we**  
 02:44PM **9 need to finish the analysis.**  
 02:44PM **10 Q.** And you mentioned the Georgia-Pacific factors. Let's go  
 02:45PM **11 to Slide 29, which is similar to one of the earlier slides we**  
 02:45PM **12 discussed today.**  
 02:45PM **13 When adjusting the baseline royalty rate, what factors**  
 02:45PM **14 did you find important to your analysis?**  
 02:45PM **15 A. Well, I went through all 14, but these three that have**  
 02:45PM **16 been marked there in green were the ones that, to me, stood out**  
 02:45PM **17 and warranted sort of separate analysis, and I looked deeper**  
 02:45PM **18 into these, but I looked at all of them and I reported**  
 02:45PM **19 conclusions on every factor, but these are the ones that I think**  
 02:45PM **20 are important to the Court.**  
 02:45PM **21 Q.** And when you say "these three," just for the record,  
 02:45PM **22 we're looking at Factor 4, Factor 9 and Factor 10; is that**  
 02:45PM **23 right?**  
 02:45PM **24 A. That's right. Those are important.**