

Some Thoughts on Alternative Fee Arrangements and Flat Fees



Patentanwalt Dr. Malte Köllner

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- Is this the answer to challenges we are facing?

Classical fee arrangements

- legal fee arrangements
 - e.g. Germany: BRAGO, RVG
- hourly billing
- partly fixed + partly hourly

Client needs help -> we work
-> we bill -> client pays

(Clients can be glad that we help them.)

Fee structures on the move



Source: Daniel Ronesi, LexisNexis, www.lexisnexis.com/pdf/intelligence/Redwood%20Analytics/PwC%20NYC%20final%200612.pdf

What Clients Want

- Efficiency and quality
- Cost predictability – budget security
- No surprises
- Reduced costs
- Transparency
- Increased use of alternative fee arrangements
- Shift risk to law firm
- ...

Alternative fee arrangements (AFA)

- ❖ Contingency (fully success based)
 - ❖ combined with financing the case
- ❖ Partly success based – bonus – hold back
- ❖ Capped hourly billing
- ❖ Retainers
- ❖ Fixed fees / flat fees
- ❖ Volume discounts
- ❖ Other discounts
 - ❖ particularly on excessive hourly rates are very common
- ❖ Package arrangements
- ❖ ...

AFA -> alternative interaction

Client asks for a quote

-> we quote

-> client negotiates

-> client orders

-> we work

-> we bill as agreed

-> client pays

(We can be glad that we may work for them.)

AFA – client / law firm relation

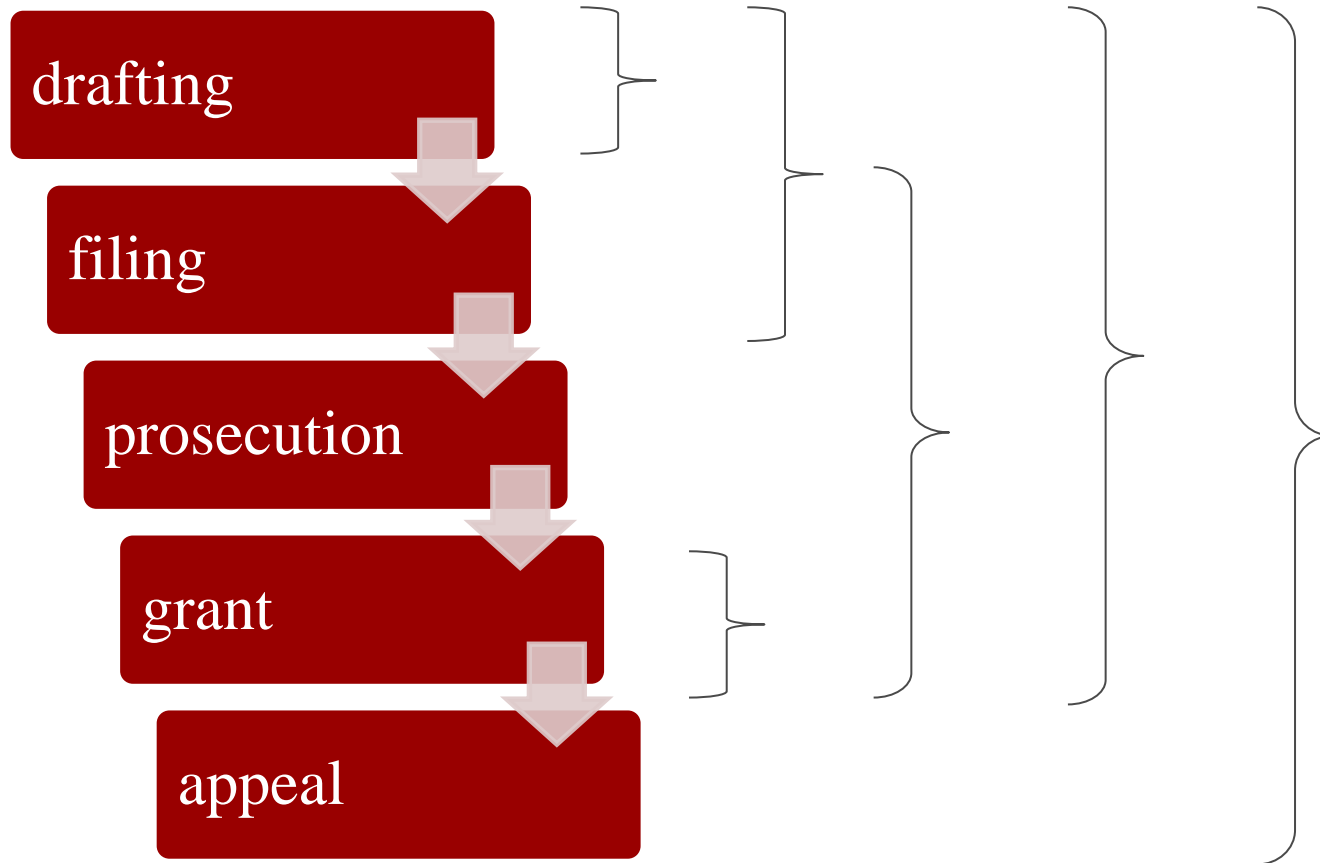
- AFA do not necessarily align client interests and law firm interests
- Nor do classical fee arrangements
- The incentives for client or law firm can be suitable for the other side or not

AFA on the rise

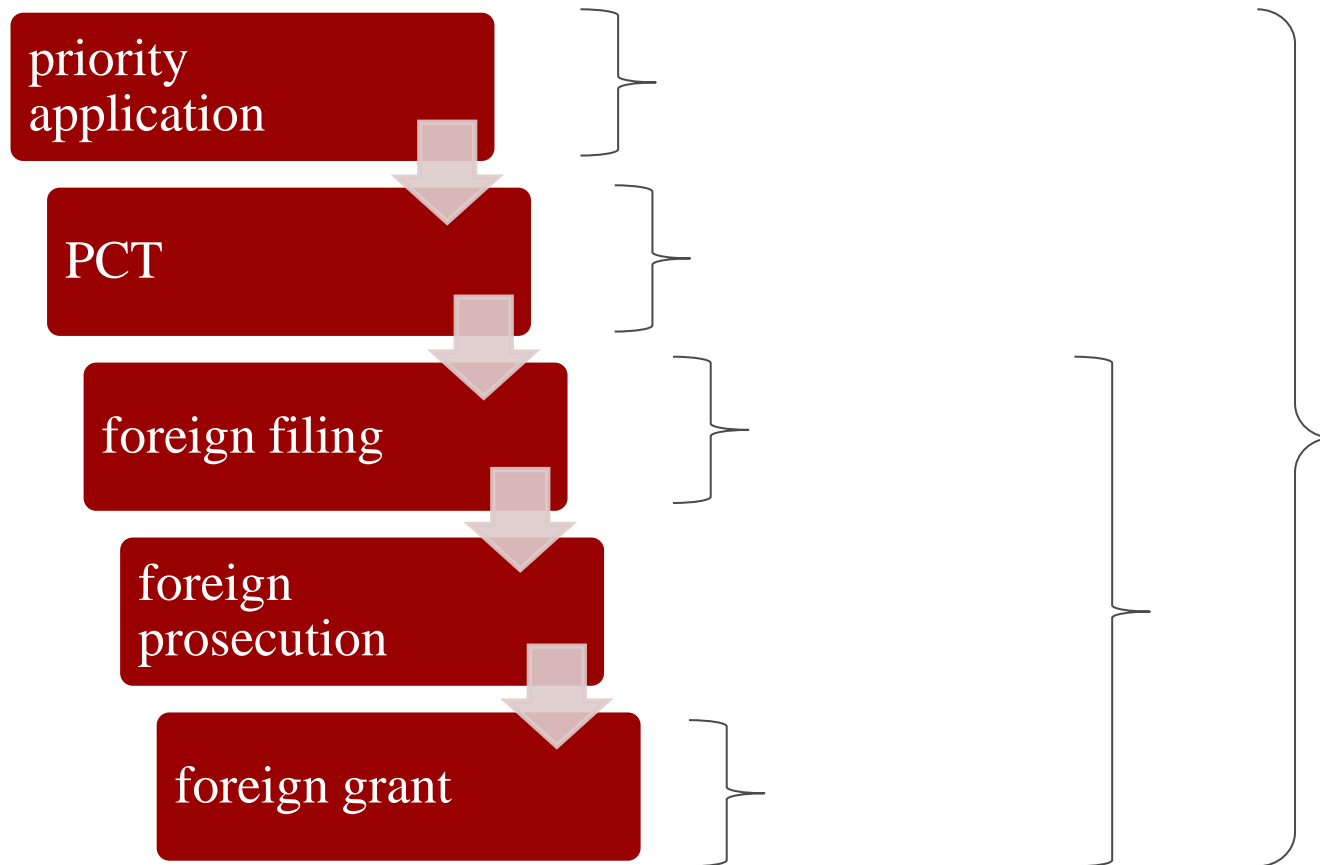


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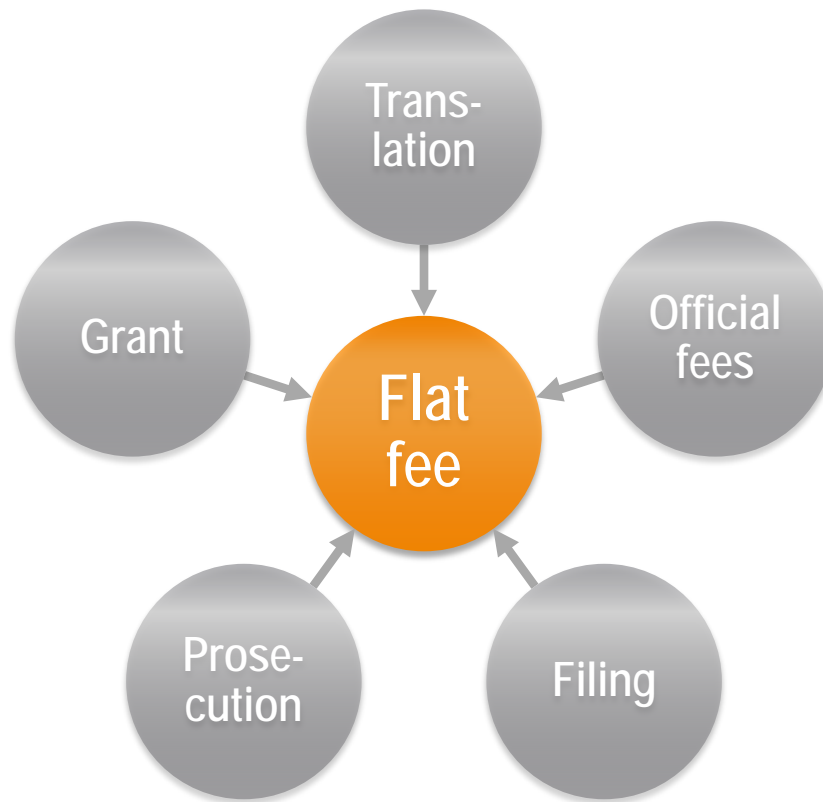
Flat fees for different packages



Flat fees for different packages



All-in flat fee for foreign filing



In our case,
it is not a
success fee.

Lessons learned on Flat Fees

Positive

- It is a wonderful door opener
- Every client wants to discuss it
- No discussion on final bill

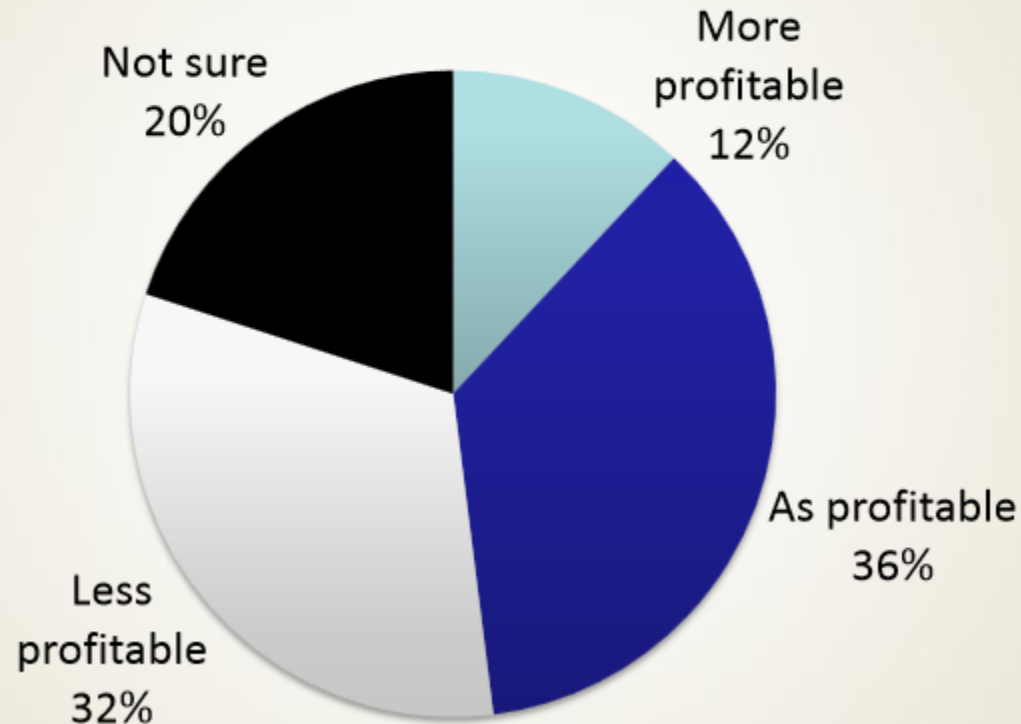
Lessons learned on Flat Fees

Neutral

- You need a precise definition of what is covered and what is not covered
- You may need statistics to calculate the flat fee
- Profitability?
- The file becomes a project that you need to manage
- Efficient processes are key

AFA profitability

Compared to projects billed at an hourly rate, are your firm's non-hourly projects more profitable or less profitable?



This is a net decrease.

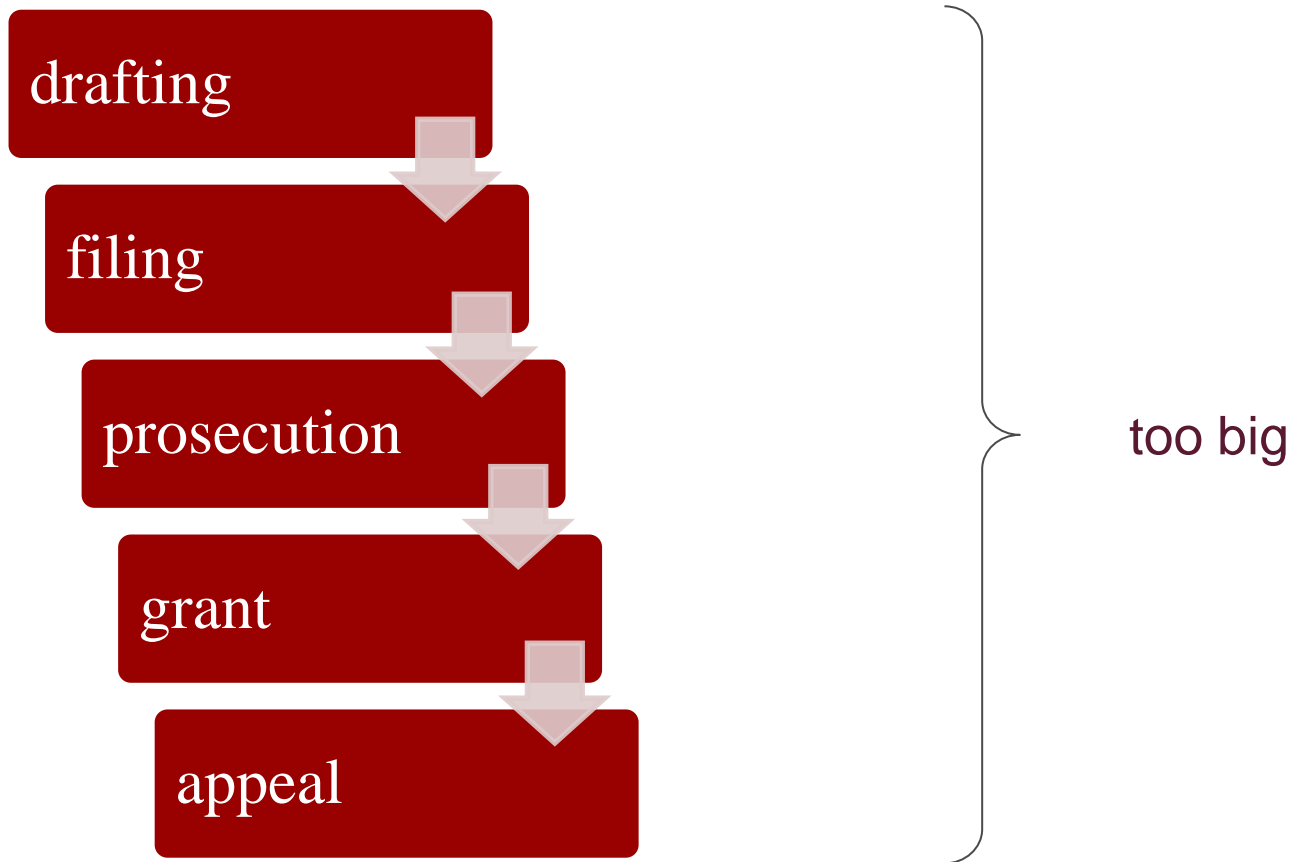
Source: Daniel Ronesi, LexisNexis

Lessons learned on Flat Fees

Negative

- It does not fit all
- Not every client will order it
- Don't make the package too big
- If the package is too big, the acceptance goes down
- Increased risk for law firm

Flat fees for different packages



Difficulties of law firms with AFA

- reluctance to change
 - processes
 - fee structures
 - classical law firm style
- reluctance to take a risk
- lack of
 - project management skills
 - pricing experience

Are AFA / flat fees the answer to challenges
like **Global Dossier** and **ePCT**?

No.

Do we need to take AFA into account?

Yes!

Conclusion

- ✓ AFA are a global trend and reality
- ✓ Classical billing and AFA will exist in parallel
- ✓ Firms that adapt are in prime position to find new clients
- ✓ Not one size fits all --- Be flexible --- Find the most suitable fee arrangement for the client and the matter
 - It can be hourly billing



Dr. Malte Köllner

Patent Attorney

Dennemeyer & Associates, Frankfurt am Main

World's Leading Lawyer Prosecution (Chambers)

World's Leading Patent Strategists (IAM)

Editor-in-Chief MITTEILUNGEN DER
DEUTSCHEN PATENTANWÄLTE

Author of „PCT Handbook“