



By Janice Becker

ATTORNEYS KNOW FROM THEIR DAILY PRACTICE HOW CRITICAL LANGUAGE CAN BE IN HUMAN RELATIONS. "Handle with care" could serve as a working motto for important communication, whether written or spoken. And even more care must be taken with communication across language borders.

International law is certainly one of the "red hot" practice areas today (*Legal Management*, May/June 1995), but the need to cross foreign language borders may arise in almost any field of law. The exponential growth of international travel, trade, and investment is reflected in the practice of almost all areas of law. A personal injury suit that includes a medical report in a foreign language; securities fraud involving foreign investors—and the foreign language materials used to solicit their funds; an estate that comprises real property and other assets in a foreign country; any suit that involves a party in a foreign country where service must be made in the local language: The list of legal matters that may require the services of a professional translator goes far beyond the familiar areas of immigration or customs law. Today, it is practically endless.

Many firms are caught unprepared to meet these need, to the detriment of their clients and their image. An understanding of the service you are hiring and a few guidelines for choosing the right practitioner for the job will save time, expense, and possibly embarrassment.

Robert C. Meltzer, vice-chairman of the International Practice Group at Arnstein & Lehr, a medium-size general practice firm in Chicago, has worked with many translators over the years. He related an early learning experience that is unfortunately not uncommon. "Some years ago I needed an article from a foreign language

publication translated, so I called that country's chamber of commerce here. A bilingual employee assured me that she could translate it, but when I got it back, you couldn't understand her translation. Just speaking the two languages involved is not enough."

Translation consists of the transmission of concepts from one cultural context to another and requires an understanding of two languages, two cultures, and two legal systems. Words are loaded with culturally specific meanings and connotations. The translator must understand and appreciate those connotations in the original

and faithfully convey them in the translation.

To complicate matters more, simple one-to-one equivalence often does not exist, for instance, between aspects of the code-based legal systems of continental Europe and Latin America and the common law tradition in the U.S., Canada, Australia, and other countries that inherited it from England. So your translator will make choices to compensate for the lack of equivalence. You need to be certain those will be well-educated choices.

The United States is perhaps unique among industrialized countries in its laissez-faire approach to the translation profession. Unlike most European countries, there is no government or independent agency that grants professional accreditation to translators. In Germany, for instance, there are both, offering two major types of accreditation. Any document submitted to a court or government agency must be certified by a court-accredited translator, who has a university degree in translation. There is also an accreditation process sponsored by the Chambers of Industry and Commerce (IHK) for translators who provide proof that they have acquired their skills through at least two years' practical experience. After passing a translation exam in both directions, they are IHK-accredited translators.

Canada is taking significant steps toward a national standard for translators. The Canadian Translators and Interpreters Council (CTIC), an independent professional organization, recently signed protocols with a federal government agency that, in effect, recognize the validity of the CTIC Standard Certification criteria for translators in that country's two official languages, French and English. The CTIC formed the National Correction Centre in 1990 to improve the certification process. Provincial and territorial associations rely on the CTIC certification examination in granting professional recognition to the translator, a reserved title by law in Canada.

In the U.S., the American Translators Association (ATA) sponsors accreditation exams that are basic tests of competence in one direction, i.e. from a foreign language into English or vice versa. ATA accreditation is a good indication of a prospective translator's professional commitment and basic competence. But you will need to take some additional steps and gather more information before you can select the best translator for your project.

Analyze your specific needs. What is the "source" language and the "target" language, that is, the language of the original document and the language into which it must be translated? As a rule, translators who are native speakers of the target language will write more fluently and have a better active command of terminology in their native tongue. This will be one factor to consider.

What type of material must be translated? Most professions have developed their own specific language and terminology, whether it be legal, medical, or even government jargon. Does the material you need translated involve such a "language within a language?" Professor Sue Ellen Wright at the Institute for Applied Linguistics, Kent State University, Kent, Ohio, writes that such terminology "comprises that aspect of the text that poses the greatest risk of failure." To avoid that risk of failure, make sure the translator you hire is familiar with your specialized branch of knowledge. Translating a patent for electronic equipment will require a strong background in that field, for instance. Familiarity with civil court procedures in a document's country of origin may be required in another instance.

R. Kevin Williams' practice often requires translation assistance. He is an attorney with O'Donnell, Byrne & Williams in Chicago, a boutique firm of 5 lawyers specializing in customs, international trade, and transportation law. He said that when he has to find a translator, "I look first for someone who has particular experience in translating legal documents because in every

country the language of law is different from everyday language. Then I look at the particular expertise in technological areas where terms differ too."

The end use of the translation will also influence your search. If the translation needs to be certified for a U.S. government agency or the courts, the education and professional credentials of the translator will assure you and the court that the translation is complete and accurate. If it needs to be certified for a foreign governmental body, you may need to ask prospective translators if they have any certification required by that country.

When you have developed a picture of the skills your translator will need, you face the challenge of finding the right one. Translation agencies are easy to find and offer a wide range of languages but the quality they deliver can vary wildly. Care needs to be taken in screening an agency. Are their translators accredited and, if so, by whom? What qualifications and experience does the translator have who will be working on your project? Will the translation be edited and, if so, by whom?

For the legal practitioner, there may be important advantages in working directly with an independent translator. Not only are their rates typically lower, but they may offer greater flexibility of service as well. Howard Berk, an attorney at the Cook County Office of the Public Guardian, Estates Division (Chicago), explained how he approached finding a translator for an estate matter that involved foreign assets. "I looked for someone with legal and real estate experience, and someone who was flexible and would be available when I needed to consult. I didn't want to be handed off to the translator du jour." He found that a foreign language professional could be an invaluable resource. "There has to be a quality person behind the translation. The person not only has to be able to do the rote translation but they have to be dynamic and able to respond to the situation as it develops. If the person can't respond to those changes, you're stuck."

Translators must be detectives, searching out the meaning of obscure abbreviations or verifying actual usage (not just what a dictionary states), and most develop resources to whom they turn when confronting such puzzles. This knowledge of available resources can serve the legal practitioner too. "You want to look for someone you can feel comfortable with and someone who can relate to the community you're dealing with. In case issues come up that you need ancillary services to deal with, your translator should have a network within the [foreign] community that you can rely on," Berk recommends. His translator was able to help him locate a real estate appraiser in a foreign country that saved him a great deal of time and expense.

Professional organizations such as the American Translators Association (ATA) in Alexandria, VA, and many local and regional translators groups (such as CHICATA, Chicago Area Translators and Interpreters Association, and NOTIS, Northwest Translators and Interpreters Society, in the Pacific Northwest) publish directories of their members that provide some basic information to begin your search. Foreign consulates and chambers of commerce often provide lists of translators who can be screened on the basis of the above criteria. But inclusion on these lists does not necessarily reflect any particular level of skill or expertise; ask what criteria are used in compiling the list.

Perhaps the best source of referrals, however, is a translator your firm has worked with in the past. A translator can often refer you to other professionals working in other languages and areas of specialization. Bob Meltzer's years of experience have paid off in that regard. "I think the important thing is to find a translator who can tie you in to other qualified translators. I don't want to have to go through 17 cards in my Rolodex to find someone. I'm interested in a network of qualified people I can rely on, just like with any other professional service."

A central database of translators your firm has used and whose competency has been proven to an attorney's—and a client's—satisfaction is a valuable asset in finding others.

Price is one factor in making your selection, but only one. U.S. rates are usually quoted on the basis of the computer-generated word count of the final product. In other countries, rates may be based on number of lines of text in the final product. The technical difficulty of the text, the speed of turn-around you request, and the legibility of the source document will all figure into the rate a translation agency or an independent translator quotes you.

Finally, when you have found a translator, brief her or him on the issues involved. Background materials and information will enable the translator to do his or her best. The more they know, the better the product. Designate a contact person at the firm with whom your translator

can consult regarding ambiguities or "terms of art" in your field.

In document-intensive litigation, a professional translator can provide custom services that will save your team time, confusion, and money. Foreign language documents can be catalogued and abstracts prepared so the attorneys can decide which ones they want translated, in whole or in part, and in what order. A translator who has become familiar with the issues in a case can analyze foreign language documents with particular questions in mind. But the firm must make the threshold decision that a translator is capable of this kind of work. Only a good working relationship will provide the basis for that decision.

Foreign languages do not have to be a barrier when you know how to find and successfully work with experienced professionals who can help you meet your firm's specific needs and enhance your firm's image with international clientele.

- **Analyze your requirements.**

- What is your source language and your target language?
 - Is technical terminology involved, and what kind?
 - Does the translation need to be certified?

- **Screen prospective translators.**

- Is he or she accredited? By whom? How many years of translating experience?
 - If specialized terminology is involved, do they have the technical background needed?
 - Can she or he provide references?

- **Negotiate your terms.**

- Rates are quoted on the basis of the computer-generated word count of final product.
 - Deadline, technical difficulty, and the legibility of the originals will all affect the rate.

- **Work with your translator for the best service and results.**

- Provide background information and documents about the issues involved.
 - Designate a contact person at your firm whom the translator can consult.
 - Discuss other options, such as sight translations, summaries, etc.

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