

ExecutiveCOUNSEL

THE MAGAZINE FOR THE GENERAL COUNSEL, CEO & CFO

Multinational M&A Review Often Requires Translated Documents

**By Ty Cobb and
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The demand for multilingual translation in legal departments and law firms is increasing. Multilingual support is often required in such areas as court reporting, e-discovery for litigation, and virtual data rooms for mergers and acquisitions and bankruptcy cases. In these situations, fast turnaround times with error-free results are extremely important to firms and clients.

Until recently, the Federal Trade Commission (FTC) viewed the matter of non-English-language documents during the discovery process with a certain amount of flexibility. If, for example, a company embarking on a merger had 500 documents in 12 different languages that the company claimed were likely not relevant





to the deal, the FTC often was willing to take their word for it. Today, the FTC is more likely to make a “second request” for translated documents – adding another layer of complexity for legal departments and law firms working with multinational companies and clients.

The Foreign Corrupt Practices Act (FCPA) is another factor in the growing need for translation processes. To curtail international bribery, legal representatives must now prove their compliance efforts not only in their U.S. headquarters, but also in their foreign operations. The ability to do that hinges on access to translated documentation of business practices abroad.

In a field that demands precision, the idea of machine translation (MT) can seem like anathema. However, MT may be essential for managing the deluge of multilingual documents involved in discovery, mergers and other legal processes. Relying on MT for triage early in the translation process is one option. When a legal department or firm is faced with tens of thousands of documents in foreign languages and must determine which warrant careful translation and which are irrelevant, MT is very helpful.

One option is to use MT early in the discovery process to give case teams a degree of English operability within the foreign language documents. The work product can be coupled with various technologies to cull the data set to manageable size, including early case assessment platforms. Then human experts can carefully translate a smaller set of documents.

Another solution combines MT for a quick initial translation, followed by attorney-assisted document review to further narrow the universe of relevant documents and determine whether the document is responsive to the particular subject matter. Only then is human translation used to review and correct basic spelling and grammar issues. By integrating multiple forms of translation, firms can reduce costs without affecting accuracy.

Faced with any case involving foreign language issues, lawyers should be aware of the main options for translation and when to employ each of them. A translation solutions partner can design an appropriate workflow that starts with machine translation for rapid review of astronomical amounts of data. The same partner can then provide a team of experienced, human experts or document reviewers for more thorough

and accurate translation and review of the most critical documents involved in discovery.

Here, for example, is a closer look at how Hogan Lovells works with a translation service:

The law firm often requires workflow development to determine the best document translation process for each individual case. Recently, it faced a case that tested its ability to work across and beyond language barriers. The firm had a second request from the FTC that involved 400 documents in 12 languages, and only three days before a critical government deadline. The firm worked with TransPerfect Legal Solutions to manage resources for this task, culling through the less important documents with MT and calling on human experts to carefully translate the information that was vital to the case.

International companies need attorneys that can practice law in the United States, so they see the value of hiring U.S.-based counsel. Because this is a common practice, translation becomes important in collaborating between the company abroad and domestic counsel. For example, a current case involving an FCPA investigation requires the translation of relevant documents from Chinese into English, so the U.S. attorneys can read and assess documents. In this case, translation adds significant value when counsel analyzes whether the company is in violation of the U.S. law.

Translation factors into much of the Hogan Lovells’ pro bono work, as well. Translation services enable the firm to take on Spanish-speaking clients and partner with organizations that assist refugees overseas. If cases require translation of birth certificates, verbal testimony or other documentation, there is a process to do that. Translation has also become an integral part of the firm’s intellectual property practice, where multilingual patent litigation is becoming more prevalent.

With machine translation technology, law firms can quickly translate material to get the gist of the content and determine whether or not documents merit more accurate human translation. ■

Machine translation may be essential for managing the deluge of multilingual documents involved in discovery, mergers, and other legal processes.



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