

翻訳

Honyaku E<>J translation list

subpoena

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Subpoenaed...

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[Warren Smith](#) [View profile](#)
[More options](#) Aug 18, 3:00 pm

Has anybody on this list ever been subpoenaed (or been asked to make depositions or give testimony) regarding a translation job you have long since been completed?

If so, what were the expectations for compensation, reimbursement for travel, etc.?

According to the attorney that is the client of the agency for which I did the work, the attorneys for the other side are making rumblings about subpoenaing me because of two small differences between my translation and the translation produced independently for their side (by a very fine translator, by the way, whose work I respect -- who happens to be a member of this list, and, at this point, may or may not know that there are questions about our translations). (The differences in question are only the presence of some "Translator's notes" in his translation that are not found in mine, so, thank goodness, no one has complained of any material differences in the translation.)

If minor differences in wording, interpretation, etc., do become an issue, however, does anybody have any real good ways to explain to a layman (or to a jury) why two "correct" translations would not be identical, and why the presence of stylistic differences, etc., does not imply that one or the other translation is "wrong," unless there are material differences in meaning. In that regard, does anybody have any working definitions of what a "material difference in meaning" would be? For example, I see one sentence in the other translator's translation where he put in an inferred word that is not supported explicitly by the text (although I agree that his inference was completely reasonable given the context). Conversely, in another sentence, I dropped a word that was found in the Japanese and that (at least at the time) I thought was implied so strongly by the sentence that it did not need to be stated explicitly in English, and that inserting the word in English would be wordy, disruptive to the flow, and confusing. Would these be considered "material differences"?

Has anybody on this list derived good ways to explain to people outside of our industry that such decisions regarding handling of inferences is inherently part of the job of the skilled translator?

Thanks in advance.

Warren

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Mark Spahn [View profile](#)

[More options](#) Aug 18, 6:03 pm

Warren Smith asks:

Has anybody on this list derived good ways to explain to people outside of our industry that [making] such decisions regarding handling of inferences is inherently part of the job of the skilled translator?

==UNQUOTE==

Nothing beyond the obvious. The explanation will have to be made to a judge and jurors who must be presumed to be monolingual, so you need to gin up a sentence in English that might be paraphrased (translated from English into English) in two ways, illustrating the differing approaches of two translators (paraphrasers). Maybe a good example would be to take a sentence from a technical paper and imagine how it might be restated in a Sunday-comics explanation written for inquisitive children. Possibly the very sentence at issue might serve this purpose, but a sentence on a completely different subject might make a "purer" illustration, unaffected by the particulars of the technology under discussion. A specific example or two is something that is easier to glom onto than merely a general principle.

-- Mark Spahn (West Seneca, NY)

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Will Jasprizza [View profile](#)

[More options](#) Aug 19, 4:33 am

Warren

Without particulars of the case I can only speak generally but if you appear in court you will be asked about the incident in question, ie what you did and said, but evidence as to what is standard in the industry, and evidence as to the nature of translation would have to come from an expert witness. Are your attorneys going to call an experienced translator and perhaps a linguist, to be expert witnesses as to the nature of translation work? I am in no way implying you are not an experienced translator, but AFAIAA you can't give evidence in both capacities.

Will Jasprizza

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Marceline Therrien [View profile](#)

[More options](#) Aug 20, 10:35 am

From: honyaku@googlegroups.com [mailto:honyaku@googlegroups.com] On Behalf Of Warren Smith
Sent: Saturday, August 18, 2007 1:01 PM
To: honyaku@googlegroups.com
Subject: Subpoenaed...

If minor differences in wording, interpretation, etc., do become an issue, however, does anybody have any real good ways to explain to a layman (or to a jury) why two "correct" translations would not be identical, and why the presence of stylistic differences, etc., does not imply that one or the other translation is "wrong," unless there are material differences in meaning.

I would be tempted to use the many English-language translations of the Bible as an example that can be readily understood by any layperson

You could pick a particular passage and show how it has been rendered differently in each of the versions.

Marceline Therrien
J2E Business Translations
Oakland, California, USA

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Steve Venti [View profile](#) [More options](#) Aug 20, 4:54 pm

Marceline Therrien:

> If minor differences in wording, interpretation, etc., do become an issue,
> however, does anybody have any real good ways to explain to a layman (or
to
> a jury) why two "correct" translations would not be identical, and why the
> presence of stylistic differences, etc., does not imply that one or the
> other translation is "wrong," unless there are material differences in
> meaning.

I would first explain that "translation" actually comprises two distinct and separate processes: understanding the source text and creating the target text. I would then stress that even when two or more people share a common understanding of an issue, the complexity of language itself tends to result in individual differences in expression. Finally, I would illustrate that complexity by placing a common and well-known object--a national flag, for example--on the table and asking the jurors to write a brief description of that object's physical appearance. Comparing the jurors descriptions should be enough to demonstrate that even though they share a common understanding of what the flag looks like, and even though their descriptions are all quite similar, they are not all exactly the same.

YMMV

--

Steve Venti @ I am not a lawyer, but I do sound like one from time to time

The source of all unhappiness is other people.

--Wally

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Mika Jz [View profile](#) [More options](#) Aug 20, 5:06 pm

Marceline's suggestion of showing various renditions of Bible is excellent, and I want to add that a clear-cut demonstration, convincing even to non-linguists, is of great value to all of us translators, whether we realize it or not.

I wonder if there are gems to be found in other language groups?

Mika Jarmusz @ I wish I can help, but am off the list again for a while
Salem, Oregon USA

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Marceline Therrien [View profile](#) [More options](#) Aug 20, 7:17 pm

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Just to be clear, the above question was posed by Warren Smith, not me.

Marceline Therrien
J2E Business Translations
Oakland, California, USA

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Steve Venti [View profile](#) [More options](#) Aug 20, 7:55 pm

Marceline Therrien wrote:
> Just to be clear, the above question was posed by Warren Smith, not me.

Yeah, sorry about that. Poorly edited on my part.

--
Steve Venti

The source of all unhappiness is other people.
--Wally

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Warren Smith [View profile](#) [More options](#) Aug 20, 8:06 pm

Marceline wrote:

You could pick a particular passage and show how it has been rendered differently in each of the versions.

Perfect! Thanks.

Warren

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Friedemann Horn [View profile](#) [More options](#) Aug 21, 1:27 am

> > If minor differences in wording, interpretation, etc., do become an issue,
> > however, does anybody have any real good ways to explain to a layman
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> > a jury) why two "correct" translations would not be identical, and why the
> > presence of stylistic differences, etc., does not imply that one or the
> > other translation is "wrong," unless there are material differences in
> > meaning.

Is "why are the two translations not identical?" really going to be the question you have to answer?

If the opposing counsel wants to question you in court about your translation, he probably wants to make a point, and not learn about translation in general. So I'd imagine that the questioning might go more like this:

"Did you produce this translation?"

"Yes."

"On line soandso, did you translate the Japanese word ABC with the English word XYZ?"

"Yes, but..."
"Thank you. So you believe that XYZ is a good translation of the word ABC?"
"Yes, but let me ..."
"Thank you. No further questions."

... which would leave little room for having the jurors write a small essay about a commonplace object.

Also, don't forget that you're not the one on trial here. Any problems that one of the parties has due to misconceptions about translation are not really your problems. It's the job of their attorney to clear up those misconceptions (if that is to the client's advantage), not yours.

Friedemann Horn
www.horn-uchida.jp

Steve Venti:

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Will Jasprizza [View profile](#) [More options](#) Aug 21, 3:49 am

Warren

Like I said, I don't have all the facts, but on what you explained you are being subpoenaed to give evidence. People are subpoenaed to produce evidence concerning the matter at hand - i.e., first hand testimony as to "what happened". This evidence is factual: "I did this", "I translated this", "Yes, this is one of my documents". If you attempt to give evidence along the lines of "This is a reasonable translation of that", or "This is what all translators do" you have moved from the realms of fact into opinion, and opinion evidence is the realm of the expert witness.

Information as to how translation is carried out generally would have to be adduced differently - it is not limited to the case at hand. To adduce evidence of this more general nature the usual practice is to call an expert witness to speak about the nature of translation, and how it isn't merely the transposing of words. Now you doubtless have this kind of knowledge, but as a subpoenaed person you cannot be "qualified" (in the legal sense) as an expert witness (at least not in this case) - an expert witness does not appear under force of **subpoena** but at the request of one of the parties.

The other side may in turn call an expert witness to dispute your side's expert witness - if indeed they can find an experienced translator who is willing to testify that translating IS a simple act of transposing. The judge/jury will listen to your evidence as to what you did, listen to the expert evidence as to what common practice is, and determine whether or not what you did was in accordance with what translators normally do.

I hope this clears things up a bit. You sound perfectly qualified to appear in someone else's hearing as an expert on translation, but not in a matter where you have been subpoenaed to give evidence.

Cheers

Will Jasprizza

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