

Specific Risk in Freelance Translating for Science and Technology: Legal Aspects and Competence

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Abstract: - All human activity can be evaluated in terms of risk, which applies to the activity itself as well as to its product. Commonly, this is referred to as inherent risk. In the context of a translation-related activity, the product of the activity can be a translated document, a software user interface, a web site, a database, and/or other text/electronic-based content. Each of these products represents a potential hazard for the user, consumer, engineer, worker, patient, client/provider/service team as well as for the manufacturer of the product. For the consumer and/or the manufacturer, the resulting risk may be more or less severe. The purpose of the translation activity is, from a related document in a source language, to create a translated product in a target language that is appropriate for the intended use of the translated document. The professional performing the task is the translator, working with a company or freelancing. The present article deals with freelance translating for science and technology, with risks, requirements and quality standards in the field, and with legal aspects that may protect/maintain/enhance competence and ensure clear versions on the market.

KeyWords: risk mitigation, science&technology translations, freelancing, risk management by legal provisions

1 Introduction

Science and technology translations deal with transpositions and interpreting in the service of both research and economic/commercial activities. As a rule they are a professional service that is commonly driven by locally specific market dynamics and legal or regulatory requirements. There is also an international standard that should be regarded as a framework for effective management by the manufacturer in what concerns the risks associated with the use of technical devices. The requirements contained provide a framework within which experience, insight and judgment are applied systematically to manage these risks.

2 Problem Formulation

As online media take over the functions of all other conventional media at a steady pace, a translation job is becoming more in demand. The requirements, standards and prerequisites for competent translation staff are also evolving. Now, in order to be able to get good, lucrative translation jobs, it is crucial to possess know-how in marketing translation services. As a freelance translator, one is expected to find personal means to market one's own services to prospective clients and employers.

2.1 Traps in translation contracts

Not all contracts for translators/interpreters are fair, thus negatively impacting upon the quality of the work performed and on the degree of potential liability for the professional who does the translation and who must prove solid knowledge in at least two fields: foreign languages and the scientific domain the translated data belong to.

For example, translators should carefully consider, possibly with advice from a lawyer, whether to accept terms such as:

- Agreeing not to get paid until the end client pays the agency. Of all the terms that translators are asked to accept, this is probably the most difficult. In one sense, it is understandable that an agency does not want to take the risk of having to pay huge sums to translators for a project that the agency itself might never be paid for. In addition, if a translator returns poor quality work, the agency does not want to be held responsible in the event that the end client refuses to pay. On the other hand, the agency's role as a go-between the translator and the end client involves some financial risks, such as non-payment on the part of the end client. If interpreters agree to this type of clause, they should realize that they actually accept the gloomy prospect of non-payment.

- Agreeing to indemnify (hold harmless) the client against lawsuits and/or claims resulting from the performed translation. If one signs a contract with this type of clause, one must carry one's own professional liability or errors and omissions insurance, in case one of the clients is sued because of an error in the translation. The client should have a quality control system in place, so that an error by one translator does not have a disastrous effect on the final project, but not every client will implement it. This contract clause is more of a concern if working for direct clients, less likely to have the translation edited or proofread before distributing it.
- Agreeing not to solicit/accept work from agency clients. Most intermediaries between end clients and freelancers, not just translation agencies, require this type of non-compete agreement. It is reasonable to demand fair play and not ask the end client for direct hire. However, the agency is reluctant to inform the translator about the exact clients he/she is working for, so the clause might be breached unintentionally.
- Agreeing not to subcontract work to another translator. It is a fairly common & reasonable clause.
- Agreeing to abide by confidentiality standards. Especially if working in legal, financial or patent translation, the contact with confidential financial information, trade secrets, and patent applications might constitute a risk: financial translators might be required not to engage in inside trading using their knowledge on a company's financial information before it is released to the public. This type of document is referred to as non-disclosure agreement.
- Agreeing to submit to a credit check, criminal background check or financial review. Like the confidentiality agreement described above, there are good reasons for certain translators to be bonded (insured against stealing the data they can access).
- Agreeing to uncertain amounts of pro-bono work.

If there is a clause in a contract that one does not want to sign, one has a few options: to cross out the clause in question, to modify it, or to completely refuse signing the contract. Whether or not this is successful depends on the client. Certain agencies will accept changes, while others will refuse the collaboration unless the translator signs their contract. The signature on a contract makes its terms legally enforceable, even if the client seems uninterested or vague about it: if the client would not enforce the clause, it should not be on that document. Although it is intimidating to be presented with a contract as a prerequisite for a specific job, the translator is an equal party to the contract and is entitled to object to terms that are unfair to him/her. Also, despite the fact that contracts do not appear to

be negotiable most of the time, they often are negotiable, and in any event one is highly unlikely to lose a client simply because of having questioned one of their contract clauses.

2.2 Reputation in the translation industry

Translation agencies must ensure keeping good reputation with clients, which can be achieved by:

- Quality of translation, which comes from: using qualified and experienced translators working into their mother tongue exclusively; proofreading translations; testing translators and auditing their work; sticking with the tried and tested professionals; avoid subcontracting as it decreases quality.
 - Good service, consisting in quick response and general customer care.
 - Management of client expectations. A translation professional cannot always expect someone who is not working in the industry to understand what this activity implies. It particularly applies to deadlines. In such cases it is better to offer options with the translation quotation rather than promises which cannot be kept. The general rule has to be that one only commits to what one can achieve.
 - Prompt payment of freelancers is beneficial not only for the workers, but also for the firm, as it takes additional resources of the agency to manage late payments. The employees will feel good about the company and will be more willing to go that extra mile in quality and working hours in order to look after the employer's interests.
 - Written agreement before commencement, on as many variables as possible: language combination and direction; types of translation; field; type of source document; original file format; format the translation is to be returned in; translation deadline; fee or rate to be applied; word count. At this very point, the translation agency should also require feedback from translators in the form of a written confirmation stating that they are able to fulfill the tasks and meet the terms of the agreement.
- Freelance translators have a reputation to defend, too, and, like salesmen, they are as good as their latest achievement. Their reputation is most easily maintained by:
- Staying within own capabilities. It is not advisable to take on highly complicated specialized texts without previous experience in the field, unless they have discussed this issue with the client and they obey a clear plan for completing the project. Otherwise the translator might perform below what is reasonable.
 - Work on deadlines by ensuring that the timeline is achievable. State when the translation can be ready without losing professional quality standards.

- Check the work. It is advisable to take a short break and then review the translation before sending it. This last scan can pick up certain errors or missed information. However, checking personal work is not proofreading: proofreading involves a second independent translator.
- In case of problems or need of extra time it is important to inform the client in due time. This allows the issue to be addressed properly and a solution to be found. Problems might originate in: mere legibility of the source text, lack of background information in the field, inconsistent terminology, legislation gap, or personal delays.
- Extra focus, care and communication ensure less problems & more stability in the translation industry.

2.3 Risk mitigation for contract specifications in interpreting

Depending on the nature of the client, a freelance interpreter might require them to sign a printed copy of his/her own terms of service, or might send an e-mail summarizing individual specific terms of service. The agreement with the client should first define the project, per-word rate, whether the word count is based on the source or target idiom count, the project deadline, the file format, and the delivery method, along with any other special instructions. Next follows an enumeration of additional useful clauses to be included in the contract:

- No claims to be considered after X days from the date of invoice. A time frame needs to be set, within which the agency can ask the translator for revisions, inform on possible problems with the translation, or request corrections. Give the agency reasonable time to solicit feedback from their end client; it should range between two weeks and one month.
- Within the limits of the law, all claims will be limited to the amount of the invoice. A clause such as this informs the client that in case of dissatisfaction with the work, the most they can do is refuse payment; they cannot, for example, ask the translator to forgo personal payment and reimburse them for the cost of additional editing of the translation. However, especially if the translation is done for direct clients, there may be situations where the client is legally allowed to sue for damages if they in their turn are sued as a result of errors in the translation. Freelancers who work for direct clients should strongly consider carrying professional liability/errors and omissions insurance, in the event that a client pursues a legal or financial claim.
- The client's terms of service are not in effect until approved in writing by the translator. This prevents the client from holding the freelancer responsible for

abiding by a contract that he/she has not signed.

- If the client is employed by an end client or third party, the translator's business agreement is with the client only. The client must pay the translator as agreed upon, regardless of the end client or third party's payment policies. In essence, the client (a translation agency or freelance project manager) is bound by law to pay the work received, even if the end client does not pay them. The end client is not the translator's client.
- The translator retains copyright to the translation until the invoice for the translation has been paid in full. When contracting a translation for hire, the freelancer gives up the copyright to the translated work, unless the contract specifies otherwise. Basically, this clause gives the option of pursuing the client or end client for copyright violations if they use the translation without paying.
- If the translation project is canceled after a project assignment has been made, the translator will be paid for all work completed up to the time of cancellation. Sometimes a client may send the wrong file, cancel a project or scale a project down in size after the translator has already started working. With a reputable client it should not be a problem as long as cancellation reasons are clearly the client's mistake.
- If the client is not satisfied with the translator's work, the translator must be given an opportunity to correct the translation before payment terms or rates are changed. No matter how skilled one may be as a translator, certain clients will not be fully satisfied with the work. Including this type of clause will protect the freelance against unfair clients, unhappy with the version, unwilling to pay, or taking discounts on the agreed-upon price. Before the client brings up any change in the agreed-upon payment terms, they should inform on specifically what is wrong with the translation, and give the chance of correcting it.

2.4 Freelance translators

Freelance translators can expect to earn at least \$35 per hour and can charge significantly more as they build up a portfolio of happy customers. Translators/interpreters have a unique skill, so they never undersell themselves. They use the marketing concept called *prestige pricing* (in the case of lowering prices, potential clients will assume the quality is not good enough for them to pay well). Clients need to trust that the professional in front of them can handle the job, because they (usually) have no immediate way of checking version accuracy. When responding to an ad, freelancers make sure to:

1. Emphasize their translation skills and what qualifies them as expert translators.

2. Reassure the client that their English is of a professional caliber, so that all documents will be appropriate for business style.
3. Estimate the fee based on the time needed to complete the project.
4. Demonstrate ability and integrity.

3 Problem Solution

Taking all of the above into account, as a freelance translator, the job will lie not in the hard, fast and loose distilling of basic meaning from one language into another, as in interpreting. Instead, it will mean taking a written manuscript and carefully transposing it into the target language. A writer who wants to rise to the top of the craft takes the time not only to write well by peer standards, but also to intimately comprehend the syntax and grammar of their chosen language, in order to best render all the subtleties in meaning. The first steps in working on a translation involve gathering information to identify project scope and nature, customer expectations, and applicable functional/production data, which are all integrated and analyzed to obtain risk assessment for transposing the document and a risk management plan for mitigating the translation-related challenges. Constantly providing feed-back, the risk assessment plan remains a flexible, living document.

3.1 Project management risk in scientific and technical translations

Project management risk results from the nature of administrative/bureaucratic aspects of the translation activity. More particularly, scientific and technical translations are typically organized within the framework of projects, where business or laws often necessitate multi-language research, multiple documents to be translated, typesetting/formatting activities, and so forth. As the numbers of target languages, files, and other specific tasks increase, the risk for administrative errors that can impact on translation quality leading to translation errors, also increases (file mix-ups, insufficient/incorrect project specifications, and communications errors).

Time-sensitive technical translation activities are often subject to critical time frames&deadlines. Production schedules, regulatory deadlines, filing dates, product launch events, and other time-to-market considerations can restrict the amount or availability of time allotted to the translation of product documentation in such a way that translation process requirements cannot be effectively fulfilled. Hence, there is an independent, time scheduling risk, which is a part of the project management risk.

When dealing with professional services, risks associated with technical translation is directly related to the professional resource, the translation vendor, who provides the specified service. Thus, the main hazard in resource risk management is the ability and reliability of the translators providing the services. Consequently, effective risk management depends on careful selection, training, and auditing of translation vendors. The risk management method targets resources based on the importance of their role within the service process.

3.2 Measures for meeting the targets in risk mitigation for scientific translations

- ensuring semantic accuracy and completeness of translated content
- prevent serious translation errors
- spot high-risk information and linguistic hazards
- ensure consistent application of critical terminology through glossary/lexicon development
- linguistic risk mitigation by paraphrasing, referencing, or additional explanations
- manage cross-language hazard
- minimize risky manual text manipulation (copy/paste, typing, heavy reformatting)
- use dedicated checks and customized proofreading process/checklists for high-risk items
- ensure proper text segmentation through optimized document structure and text formatting process steps
- seek additional guidance for translation of material that partially/indirectly supports an internal decision process but which, typically, are not published.
- with technical & scientific documents it is critical to keep the design process and the same style.
- when cost or timing become more important than quality/reliability, then certain errors might occur.
- information designed to support product sales, must be maintained in the same area, so as to keep influencing the consumers' purchase decision, e.g. the marketing material. The aim is recreating in the target document the intended meaning and linguistic effect of the source document.
- special focus is on coined terms, marketing and industry-specific jargon, with emphasis on effective rendering of the English source.
- cultural-linguistic aspects of implementation must be considered during analysis, as well as localization impact on layout and branding material designed to communicate training concepts to internal audiences.
- in documents connected with training personnel, the focus is on technical accuracy and instructional value, on comprehending text strings in interfaces of

software driven devices, and on abbreviations, character-length limitations, and context.

- ensuring consistency with controlled client review.
- identification of likely translation hazards in the source text and providing guidelines for mitigation of such hazards prior to the formal translation. Linguistic hazards include those items in a source document that, if mistranslated, pose a safety risk which could lead to harm/damage to the consumer.
- by identifying and resolving textual ambiguities and lack of clarity in the source document prior to translation, the risk of translation error is reduced.
- standardization is needed for identical treatment of text elements (numbers, units, conversions, proper names), in translation into different target languages.
- in projects having relatively-high risk content and/or involving translation of a single source text into multiple target texts, full source text review is preferred. However, with high volume projects, full review of the source text by the back-editor is impractical or prohibitive. In the later instances, linguistic risk information from each translator or back-editor can be gathered and reviewed by a lead back-editor while the translations are in-process. At a minimum, translating firms or freelancers should include a check-for-hazards section, which is to say, a check for text portions that are known to carry safety function (warnings, cautions).
- back-editing is performed by a linguist whose native language is the original source language, and his/her contribution is unique to this process.
- file formats often lack adequate spell-check and hyphenation or special character support. For these reasons the translation is performed in an intermediary document format and the translated content is subsequently re-integrated into the original file format. In order to mitigate the error risks associated with this process, a subsequent check is required following the formatting activities.
- compile a list of errors and inconsistencies from the document in order to eliminate truncated or missing text segments, untranslated parts, missing or inconsistent characters, alignment, indenting, incorrect numerals or units, misspelled words, wrong or misplaced graphics, incorrect/inconsistent capitalization, incorrect or inconsistent cross-referencing (table of contents, index), inconsistent spacing and/or punctuation. It all ensures that the documents obey to local conventions and global standards, to the SI metric unit system and to any project or client-specific guidelines.
- Once the final linguistic inspection has been completed, a final project audit should be performed prior to delivery, so as to assess whether or not the

deliverable product conforms to all project and process requirements. Reviewing risk management files will confirm that all pre-conceived project risks have been effectively addressed and mitigated. A last spot check is performed for critical areas and special risk items, such as non-compliance with client/project/task-specific instructions and high-risk linguistic and formatting elements.

4 Conclusion

For messages in one language to reach another audience without being cruelly or sometimes hilariously distorted, they need a touch of talent and insight. It is a pity that many customers should still understand translation merely as spending long hours burning the midnight oil with a dictionary in either hand. Being fluent and understanding the connotations and implications of the given text in each language is a more demanding and refined task that cannot be achieved by just anyone. To make a translation as true as possible to the original version, the translator needs to have access to all the relevant resources for this activity: previous versions or patterns for related documents, samples of adequate style, the latest updated print dictionaries, computer-based dictionaries, as well as internet sources. Moreover, discussions and research into the topic to be translated constitute the most important strategy to professionalize the translated version. In today's uniting and globalizing world, people need to understand more from different languages and cultures; thus, translation jobs become in demand.

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