

the brief

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Challenges & Implications

in High-Quality
Chinese/English
Legal Translation



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About us



Trustiics.com is an online platform where international businesses and individuals such as expats can access direct, convenient and affordable legal services provided by well-trained English-speaking legal professionals from China.

We seek to improve, through the use of information technology and the Internet, the efficiency of the legal services market for the benefit of international SMEs doing business in China and elsewhere. We want to break down geographic, linguistic and financial barriers for businesses looking for top-notch legal counsel.

Our Best Wishes

Under the impact of COVID-19, the world is practising “social distancing,” but people are still choosing to stay connected and to support each other in different ways. We wish everyone around the globe good health and wellbeing!

Expert Insight

Challenges and Implications in High-Quality Chinese/English Legal Translation

By Ms Debbie Ding, Senior Translator (Part-Time) of Warburg Pincus in Beijing

Translation is hard work. A good translation is the product of an experienced translator who has excellent command of both the source and target languages and who has exerted tremendous effort in studying, analyzing and writing during the translation process. Translators face countless challenges in their attempt to tackle issues like linguistic and cultural differences between a language pair, particularly in translating legal documents. This is due to the technical

language and jargon involved in legal communications and the “system gap” between one national legal system and another, which is even more evident with respect to translating Chinese/English legal texts. Understanding legalese across the languages, finding or creating a Chinese equivalent of an English legal term and achieving readability while maintaining accuracy, to name a few, are all common obstacles that legal translators have to overcome



in translating between the two languages.

Navigating these difficulties requires more than just language skills. Legal translators must keep studying legalese and business vocabulary in both languages whenever they encounter new terminology, so as to be specialized in translating certain types of legal documents. such as agreements and contracts, laws and regulations, case headnotes, regulatory and compliance documents, legal memos, due diligence questionnaires, investment term sheets, patents, subpoenas and depositions., Furthermore, translators need to be familiar with industry-specific legal language used in areas such as banking and finance, securities, corporate, litigation, media and entertainment and life sciences.

Art or Science?

There are arguments as to whether legal translation is science or art, or more of a science than an art. I

personally believe that translation can be 50% science and 50% art, regardless of the nature and form of the written contents to be translated. The contents could be in the form of Word documents, Excel worksheets, PowerPoint slides, email or text messages, audio or video clips or movie subtitles and so forth. Sometimes a legal document can include conversations, descriptions, storytelling or similar contents of a literary nature. Court rulings, case headnotes, testimonies/ depositions, patent descriptions, etc. are all likely to contain descriptive material. Similarly, it is possible for a literary work to contain legal content. Whatever the nature and form of the source text, the process of translation always involves immense efforts in scientific research and analysis, as well as a creative mind.

The Chinese and English languages are more unlike each other than any other language pairs, given that the cultural systems of China and the English-

speaking countries are only remotely related. In addition to tackling the complex compound sentence structures and legal terminology in legal-speak, translators have to deal with unique difficulties with respect to translating English/Chinese legal documents. Because much legal terminology found in common law is not reflected in Chinese legal language, diligent translators have to spend a long time finding or creating the equivalent of a legal term in the source document. This involves efforts in understanding the terminology, searching online and offline references (including glossaries of terms and industry knowledge in both the source and target languages), analyzing all the collected information and identifying the most suitable equivalent or, if needed, creating one on the basis of all the said efforts as well as the translator's language capability, work experience and business/legal sense. Creativity is also involved in translators' attempts to achieve the

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best possible choice of words, well-structured sentences and high readability, or in some cases, even elegance or artistic refinement, while maintaining accuracy. This presents additional challenges when translating a legal document between Chinese and English.

Precision and Consistency

Precision is no doubt an essential goal in translating any type of text. When dealing with a legal document, a translator should focus not only on accurately reflecting the nuances of the source document, including those of legal terms, but also on using the defined terms consistently

throughout. Consistency is certainly subject to precision.

To achieve accuracy, a translator will first need to understand the source text, and, in the case of legal translation, the legal terminology in particular. The Chinese language, in contrast to English, is characterized by ambiguity and less-structured sentences. Writing a Chinese sentence that conveys the writer's message clearly and concisely can be challenging even to native Chinese speakers. In translating Chinese legal documents, translators can face profound difficulties in comprehending the Chinese source text, given the ambiguous nature of the language itself and the legal tradition of the nation. Likewise, when translating an English legal document into Chinese, it is very challenging for a translator to find the Chinese equivalent of each of the English legal terms in the source document and present a readable translation.

Context Is the Key

When conveying meaning between Chinese and English, translators are likely to be hindered by the Chinese way of thinking, given the complexity and uniqueness of Chinese grammar. In addition to the issue of multiple meanings of a given word, Chinese grammar lacks singular or plural forms, articles, and verb conjugation to indicate tenses, and constantly omits the subject of a sentence. It is therefore particularly vital for translators to always take context into consideration; a translation that is not based on context could deviate from the meaning originally intended in the source text.

Importance of High-Quality Legal Translation

Mistranslation could, in some cases, entail a future (if not present) dispute or other costly problems. Sometimes an inaccurate translation of small words, either consistently or

otherwise, can lead to significant impact in the legal context. Take the *Motion Fitness vs. Changzhou Yingcai Metalwork Fitness Equipment* case, a 2014 patent infringement dispute, as an example: according to an article posted on Morningside Translations' website on January 30, 2018, "the indefinite article 'a' was translated on each instance in the Chinese version of the patent claims to 'one' – a specific numerical value. This narrowed the scope of protection in the claims and wound up fatally undermining the plaintiff's case."

In many cases, an inaccurate translation is likely to result in at least a delay in contract negotiations or other business communications and a waste of time for all the parties concerned. Although lawyers or other professionals involved in the negotiations or other communications, if any of them are bilingual, could help to identify and

correct errors randomly found in a translation or even proofread the entire translated text, this could be frustrating when they have already worked long hours on drafting and negotiating legal documents or communicating with business partners.

Sometimes another translator or agency has to be hired to redo a poor translation, which is a loss of both time and money. Many China-based translation service agencies outsource projects to freelancers

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who are students or teachers from universities in China, which is the only way for them to cut costs. Those students and teachers generally lack legal translation and work experience with businesses. Using a service like this may seem cost-efficient but will inevitably pose risks. However, high rates may not necessarily mean high quality; I have seen some quite poor translation products provided by high-priced translation services. Last but not least, a bad translation could be detrimental to the reputation of the company that has used it in communicating with its potential business partners.

It therefore helps to have well-trained and highly experienced

legal translators, who are especially attuned to subtleties and details in documents, handle your translation projects for your cross-cultural business and legal communications. High-quality translation services also demonstrate professionalism, and therefore, are beneficial to the reputation of their users. Trustiics offers an effective platform for you to easily identify the right resources. It has already screened translators for you, which saves you the trouble of searching myriad sources for legal translation services that are both high-quality and cost-efficient.



If you have any legal document that needs to be translated or reviewed between English and Chinese languages, please feel free to submit your requests on Trustiics.com.

Featured Counsel

Counsel registered on Trustiics are among the best English-speaking lawyers and legal translators in China. They have worked at the most reputable legal service firms and legal departments in China and around the world. In each issue of *The Brief*, we will present one legal expert as our “Featured Counsel.”

Ms Debbie Ding, Senior Translator (Part-Time) of Warburg Pincus in Beijing

Debbie is a professional legal translator with over 26 years of translation experience and specializes in both Chinese to English and English to Chinese translations. She has extensive experience in translating various types of legal and business documents that cover a wide variety of industry sectors ranging from securities; capital markets; private equity investment; asset management; film, television, entertainment, broadcast and media technologies and services; IT and telecom; broadband convergence; e-fulfillment and network security, to manufacturing, electronics, consumer products, retail, power, mining, etc. The types of documents she has translated include laws and regulations, legal briefs and digests, case headnotes, equity joint venture contracts, articles of association, codes of conduct, securities-related regulatory and litigation documents, due diligence questionnaires,



term sheets, letters of intent, investment framework agreements, limited partnership agreements, shareholder agreements, non-disclosure agreements. She has also translated many other types of contracts and agreements, legal memos, board resolutions, law compliance policies and guidelines, powers of attorney, project proposals, pitch documents, news articles, analysis reports, interviews, speeches, press releases, company profiles and other marketing communications materials, correspondences, conference invites, bios and so forth.

Debbie has an excellent command of both English and Chinese in all aspects and has natural attention to detail as a result of more than 20 years of training and work at a number of MNCs and international law firms in Beijing. She also has experience in market study and other aspects of business activities.



The Trustiics Journey:

Hindsight in 2020: why businesses need a platform like Trustiics

Ines Bao, China Business Development Manager

I oversee Trustiics' expansion in the Chinese market and manage the Trustiics subsidiary in Shanghai. I also provide operational support for lawyers who register on our platform. I was eager to join the team because my business experiences had made me understand the enormous need for a platform like Trustiics. My hope is that my lessons learned in hindsight can help other businesses moving forward.



Trustiics offers legal consultation, legal due diligence and legal document translation on a pay-as-you-go basis. Registered professionals on the platform are top-notch, vetted experts in a variety of legal fields. Business users can choose the legal professionals with whom they work each time they have a question or issue. They can access different experts, or re-engage the same ones, as needed. Biographies for all registered professionals are available on the web site, and Trustiics' vetting, bidding and rating systems, as well as our Quality Assurance Panel, contribute to accountability.

Unfortunately, no such platform existed at the time when I worked as the assistant to the president of a large, privately-held group company in China. Legal consultation is important for most businesses, in order to be aware of potential risks and to carry out a variety of transactions and activities. The only way our group company could be assured access to high-quality lawyers when we needed them, even in our own country, was to pre-pay a large annual retaining fee and give long-term commitment. Despite engaging reputable law firms as preferred counsel, we could not always get sound advice on a given issue especially when it involved special legal expertise.

It was even more challenging to find a good lawyer in another country. Our group company engaged in a lot of international business, from international trading to business partnerships. For example, when we negotiated an energy-trading contract with a company in the Middle East, the contract was governed by Singapore's laws and the parties

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selected Singapore arbitration as the dispute-resolution venue. Although Singapore is not far from China, it was a “mission impossible” to find a lawyer who could review the time-sensitive contract in the context of Singaporean law. In the end we had our regular external counsel in China, an internationally trained lawyer, review the contract from the commonsense perspective instead of based on Singaporean law. This was a risk the group company had to take, but one that could have been easily avoided if we had had access to a platform such as Trustiics.

The group company restructured a few years ago, with assistance from lawyers from the Cayman Islands and Hong Kong. The requested services were neither simple nor overly complicated. However, the group company ended up with several million dollars in legal fees although the deal did not go through after a year. That experience taught us that legal fees could become unaffordable even for large corporations.

For many years, businesses had very little choice in how they engaged external lawyers. Now there are online options such as the Trustiics platform. I feel fortunate to live in the Internet Age. The Internet had a strong formative influence on my student years and allowed for success in my early career, which was in e-commerce. The Internet, however, with its sheer volume of information and services offered, can seem overwhelming. Screening and credit mechanisms are not always transparent. Trustiics has brought together the best of both worlds: reliable services from vetted, expert legal professionals traditionally associated with large law firms, and the speed, convenience and affordability of an online platform.

Market News

China taking steps to cushion economy

Facing unprecedented challenges amid the COVID-19 crisis, governments around the world are taking measures to cushion their economies. As the first country to be hit by the virus, China's policy makers have responded with several measures to support financial markets and restore investor confidence:

- MLF cut
- Monetary easing
- Injecting liquidity
- Reserve rate cuts
- Higher caps on foreign debt
- Encouraging bond sales
- Cheap credit
- Debt relief



For more details and an updated list of the steps taken, you can read the full story on Bloomberg Quint: <https://www.bloombergquint.com/global-economics/everything-china-is-doing-to-support-its-virus-hit-markets>

Blog Posts

A Comprehensive Guide to Document Translation Services

With an almost endless supply of information and other resources now at their fingertips, entrepreneurs, small businesses and corporations are going global with their business ventures. The Internet has made international business more accessible to all, creating opportunities for both new ventures and the expansion of existing operations.



However, despite the many opportunities, operating a business in unfamiliar territory does have its challenges, such as communicating with clients, suppliers, vendors, lawyers and other partners. Cultural differences, language barriers and differing legal systems can seem daunting. Fortunately, businesses are not alone; document translation services can help them navigate the global business landscape.

[Read full article](#)

Your Free Template

In this issue we are providing an Employment Contract template for the reference of our registered users.

This Employment Contract could be used by a wholly foreign owned enterprise when hiring local employees in mainland China, and is drafted in accordance with the PRC Labour Law, PRC Labour Contract Law and other applicable PRC Laws. If you intend to use this agreement in a different situation, certain clauses need to be revised, added or deleted.



Please note that this document is for your reference only and you should always consult an experienced labour law lawyer, and preferably also a tax advisor, before entering into an employment contract. In addition, you are advised to have a professional legal translator review the consistency if you need to sign such agreement in two languages because legal translation is a very special type of translation, requiring years of training and practice.



**Click here to download the free
Employment Contract template**

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