The problem with patents
Translating the language used in patent applications

Communicator
The Institute of Scientific and Technical Communicators
Autumn 2009

Taking our first look at MadCap Analyzer
Designing constructive and destructive variants
Selecting a vendor to suit your requirements
Applying quality metrics to localisation
Demystifying patent translation

Just as patents require specialised writing skills, they also require specialised translation skills. Amanda Montecinos explains.

Translation in general is often misunderstood. Companies typically think shifting from one language to another should not require an extensive process. However, this oversimplification can cause significant problems for company brands and for their ability to gain loyal customers in foreign markets. In any given language, there are numerous double meanings and connotations for specific words that are often lost on anyone who isn’t a native speaker or extremely fluent.

In a regular document, such as an instruction manual or brochure, mistranslated words may, at the very least, cause a misunderstanding about how a company’s product operates. However, when translating patents, there are legal considerations as well. These documents must precisely describe an invention, and if the translated copy is not accurately translated, the company is exposed to the risk of litigation.

However, maintaining accuracy in these translations can be difficult because the words used in patents are often in a language all their own. For example, a phrase you could see in a patent might look like this: ‘The present invention relates to multi-ply products, especially rolled multi-ply products, more particularly rolled multi-ply sanitary tissue products comprising a consumer accessible tab and methods for making same.’

While that sounds like an awkward way to describe the little piece of paper at the beginning of a toilet paper roll, it would be completely normal in a patent. Patent language is highly descriptive and follows its own grammar. If a translator is not familiar with these specifics, it will be extremely difficult to translate the document accurately.

**Translation challenges**

Besides unusual descriptions and grammar, patents also use precise terminology that differs in meaning from standard language. One example of this is found in two phrases that can be used interchangeably in the English language: *consists of and comprises*. However, in the patent language, they have distinct differences in usage.

**Consists of**

This is used when highlighting a full list of components that make up a greater whole. The itemised list contains all possible pieces.

*Example: The multi-ply product according to Claim 1 wherein the multi-ply fibrous structure consists of two plies of a fibrous structure.*

**Comprises**

This is used when highlighting a list as well, but this list is open to additional details. It is not an exhaustive list.

*Example: The multi-ply product according to Claim 1 wherein the multi-ply product comprises a sanitary tissue product.*

The first example expresses that the product has to have exactly two plies of paper. No more, no less. The second example, on the other hand, says the product has to have at least one tissue product. There could be more than one, but only one is required.

Now, just imagine trying to find the same specific phrase in a foreign language. The translation needs to convey not only the same meaning, but also the correct legal term that is used by patent attorneys in the respective country.

**The gritty details**

Not everyone can translate patents with enough clarity to avoid unnecessary litigation. A good patent translator should have extensive training in the subject area as well as a firm understanding of the legal content of the patent.

Still, even the most basic content of the patent can contain translation problems. Here are a few examples to illustrate these issues.

**Example 1**

*From about 5 to about 9*

This is a common phrase found in patent documents that describe a range of values or units. Normally, a translator would use a non-repetitive style such as ‘from about 5 to 9’ or ‘between 5 and 9,’ which essentially mean the same thing. However, in patent terminology both instances of ‘about’ must be translated exactly as they occur to maintain clarity and exactness.

**Example 2**

*Preferably consists of*

*More preferably consists of*

*Most preferably consists of*

*Still more preferably consists of*

*Even more preferably consists of*

Frequently, a patent application will distinguish between different components that can be used in an invention by using these phrases. While they all basically mean the same thing in standard language, all of these phrases have
specific translations. Someone who isn’t familiar with this type of translation would most likely find the style awkward and try to translate in broader, more common language.

**Example 3**

‘wherein’ translates to:
- ‘caracterizado porque’
  in independent claims for Mexico
- ‘caracterizado además porque’
  in dependent claims for Mexico
- ‘en donde’
  for both dependent and independent claims for Chile and Argentina

Different locales that use the same language, such as Spanish, use different translations for the same term. These nuances are only known to those who have been trained in the patent field.

**Checking the results**

When filing patents in foreign countries, companies might have to depend on a legal expert within that country to complete the process. This means that someone with experience in the legal aspect of a patent will edit the submission for better quality. However, companies need to exercise caution when doing this because these legal experts might make unnecessary changes to the patent based on personal preference rather than sticking to industry standards with approved terminology and style guides. This can cause billable hours to accumulate, and the translation quickly becomes an expensive and unprofitable endeavour.

In addition, the discrepancies found in the different versions of the document can undermine the relationship of trust between the company and these providers, particularly if the company does not have the ability to verify the revisions internally.

To avoid these pitfalls, companies should look for translation vendors who not only have the expertise to translate patents but also have the capacity to submit the applications correctly to the appropriate countries. Processes for submitting patents can be complex, and vendors with this knowledge and aptitude are rare. This expertise will be an indicator of their expertise and knowledge in the patent field.

**How to find a patent guru**

Finding a translation vendor with the necessary experience and ability to translate a patent accurately can be difficult. This process is even more difficult when trying to find a vendor with the ability to take a patent through all the phases of the application process. Many companies claim to have the expertise in this area, but they lack a comprehensive knowledge of the entire process. Companies searching for qualified, experienced vendors can follow three guidelines to make a more informed decision.

1. **Blending technology with linguists.**
   Many translation companies rely exclusively on linguists whose method of translation is to employ their naked skills and a text editor. As a result, translation time is long and costs are high. As in most other areas of translation, there is another way. It is important to find a company with linguists that work in tandem with the aid of technology. Companies using a translation memory tool have the ability to speed the translation process and reduce costs over time as the translation memory builds up. Through this technology, translation companies will also be able to develop terminology glossaries and style guides based on client preferences, avoiding the inconsistencies that come from multiple translators working on a given project.

2. **Flexibility.**
   Most businesses have their own processes in place for any number of projects. A good translation company will mould themselves into that process and minimise the adjustment for the client. If a translation company proves to be rigid when dealing with their customers, the expense of adjusting falls to the client and not the translation vendor.

3. **Expertise.**
   Patent translation is vastly different from a typical translation project. Just because a company can translate a document from English into French doesn’t mean they know enough of the particulars for patent translation. When looking for a patent translator, it is important to get an indicator of how much experience they have in this area. In this case, it is important to get examples and references and follow up to assess their familiarity with the patent industry. This familiarity should also include filing expertise, relationships with agents and the ability to process thousands of cases per month.

**Conclusion**

Keeping these three guidelines in mind will help companies know what to look for and find the best options for effectively translating their patents. The guidelines are also useful when considering translation vendors in general and will help companies avoid the problems that arise when documents are translated poorly.

**Amanda Montecinos** is Vice President of Operations at Multiling, a provider of premium quality language services.

E: amanda.montecinos@multiling.com
W: www.multiling.com