

CAPITA

Language in Litigation

WHITE PAPER



Capita Translation and interpreting

Introduction

As more and more businesses are expanding overseas, global litigation cases are on the increase. In any litigation case, the eDiscovery process is vital, but can become very challenging when dealing with different groups of people from various parts of the world. This can mean a whole host of datasets, in multiple languages, which all need dealing with quickly, accurately and cost effectively.

Recent studies have shown an uplift of 6% over the past 12 months in the need for cross-country litigation cases , especially in highly regulated industries such as finance and banking. The study went on to discuss how organisations are having to invest more time and money into the eDiscovery process, and how this is starting to outweigh the benefits of collecting the datasets in the first place.

So how can you work with your language service provider to reduce complexities around language in litigation? Involvement from both sides in the very early stages of a litigation case is crucial, as is applying technology, to adhere to deadlines and drive down costs.

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What part does language play in litigation?

Legal teams find it difficult enough collating data from their range of sources, and these complexities double when dealing with another language. Documents have to be gathered, scanned and unitised from all jurisdictions involved, before even thinking about how foreign language documents are handled. How will an English-speaking legal team or document reviewer decipher whether the material provided in Italian is relevant to the case or not?

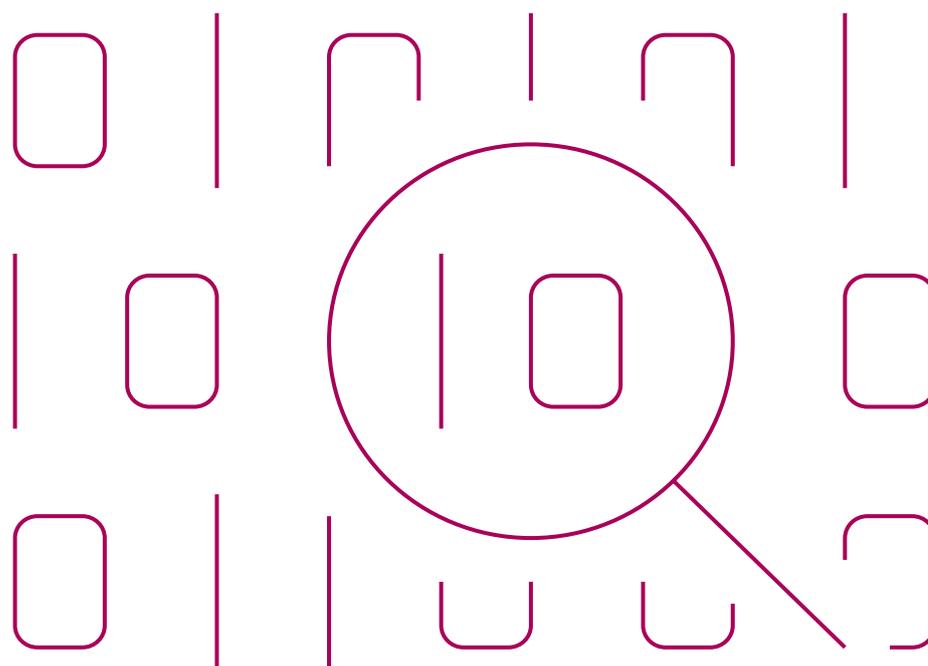
By working with a language service provider from the data collation stage – almost as an extension of the case team - you can make the whole process a lot easier and more cost efficient.



Language in discovery data processing

After data has been collected (from the internet, witness statements, servers, social media, presentations etc), it needs to be processed. The case team at this point will identify some key words and phrases that will be sought out in the supporting material. When there are foreign language files, your language service provider can step in and support the generation and classification of non-English keywords. From here, the linguists extract the relevant data from the non-English documents, and provide these to the case team for the next phase.

Frequently, the role of a language service provider is not considered at this point, but getting input during this part of the process will prove invaluable at a later stage of the litigation case.

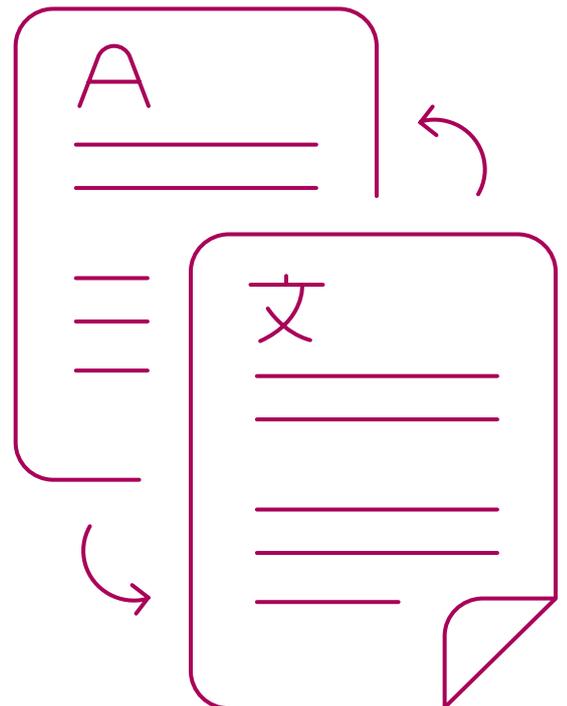


Language during eDiscovery review

After all of the discovery data (English and otherwise) has been processed and unitised, a full review stage is needed. Not involving your language service provider at the processing stage means that English-speaking case workers would not be sufficient at this stage, and you would need to source foreign language reviewers to handle the non-English content involved in your case. This alone would result in much higher costs and lengthier turnaround times. What's more, foreign language reviewers are not trained to translate, and the translations produced could not be certified, as they will not have been produced by a professional translator (and therefore not acceptable in court).

During the processing stage, your language service provider will have extracted the relevant foreign language data, and it is at this review stage that your language team can provide a summary of their findings, in English.

The basic nature of the translations at this stage means that costs are reduced and timeframes are sped up.

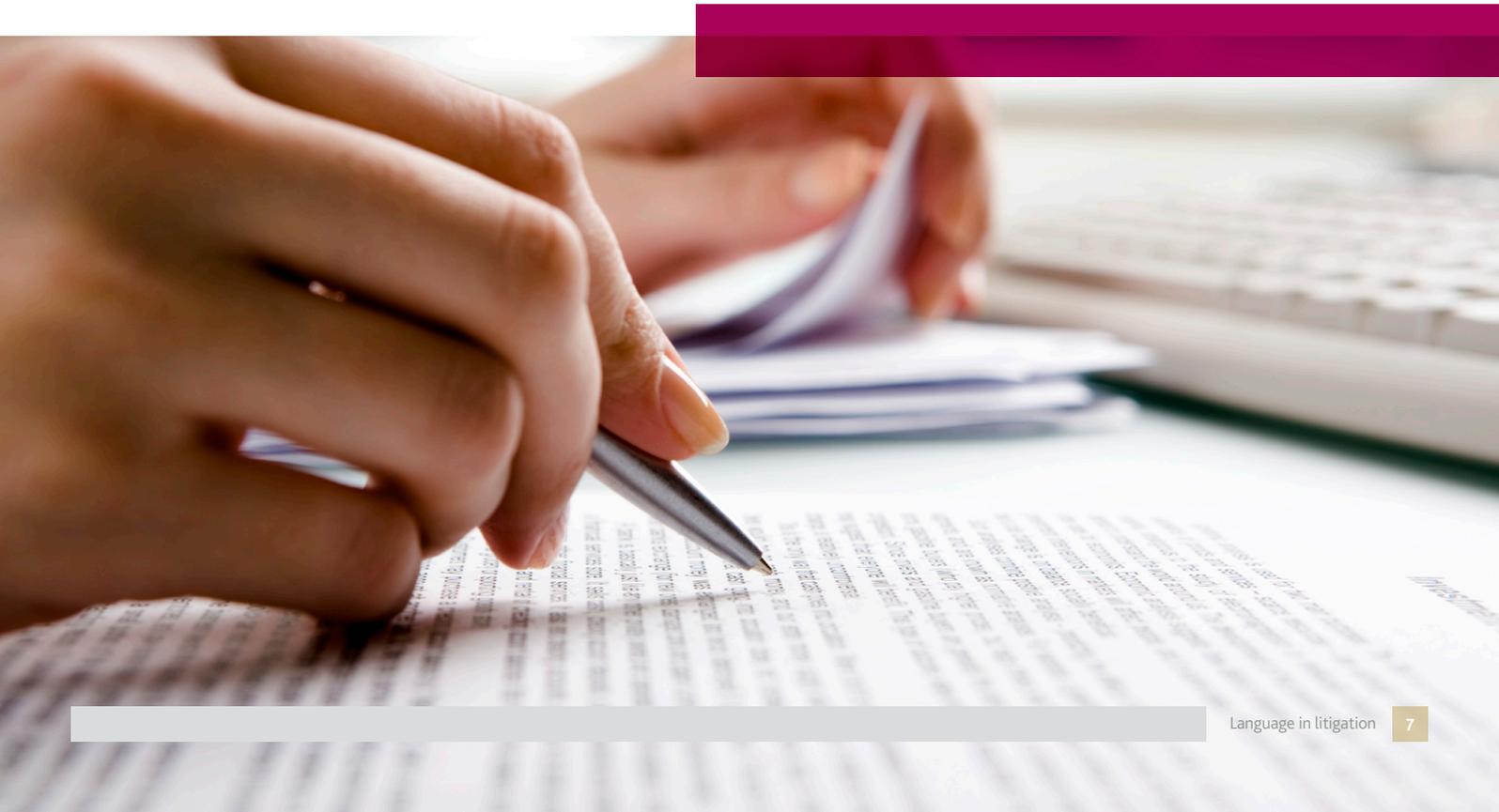


Language in the production phase

It is at this stage that the case teams decide which documents contain the most relevant pieces of information to the litigation case in hand. Only those documents deemed relevant will then go through a full, professional translation. Of the thousands of documents in review, only a hundred of them may actually be relevant, so it is only necessary to fully translate these documents in question. By identifying the relevant documents at this stage, rather than translating absolutely everything up front, you'll save a substantial amount of time, resource and money.

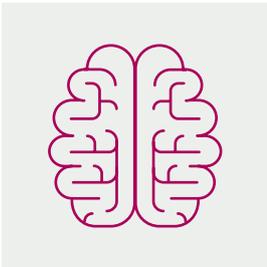
Professional linguists who specialise in legal translations will then support the certification or notarisation of the documents, whether for a brief, trial, hearing or deposition, before they are submitted for disclosure in the native language.

Don't be tempted to leave this process until the very last minute, as this will likely result in high translation costs, and potentially less-accurate translations. Translations of this nature are often some of the most critical, as any error or mistranslation could result in false information being provided as part of the trial, which could be very damaging to the case itself. If you've worked with your language service provider from the data collection stage, both parties should have an accurate foresight into what level of translation may be required at this stage, so these last-minute requests will not come as a surprise.



Let technology help

The eDiscovery process can be a costly one, and recent data shows that the average spend on eDiscovery activities for mid-sized lawsuits is around \$3.5 million. This can often equate to around 90% of the overall litigation cost! Adding the need for translation services into this is only going to inflate the costs further, so it's vital to work with a language service provider who is committed to helping you save as much money as possible. This is where technology can really help.

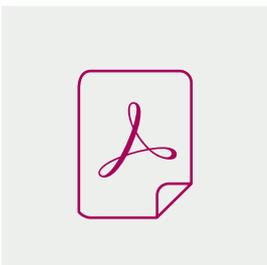


Translation memory

A translation memory (TM) is a database of text (usually sentences), in a source language and corresponding translations in another language.

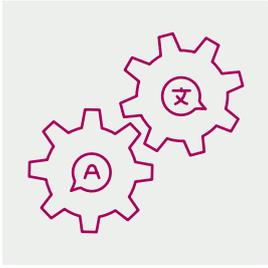
Any keywords and phrases identified during the processing stage of eDiscovery in other languages can be added to this database, which will improve the accuracy of translation in later stages of the process. This data can either be used as the basis for the machine translation engines at the automated review stage, or by professional linguists during the production phase.

Having this database ensures consistency, quality, speed and reduced costs, as repeated terms do not need to be re-translated, and keyword matching is ensured.



PDF processing

In the translation process, PDFs are notoriously difficult to deal with, as their non-editable features makes extracting text for translation arduous. With PDF processing, it's easy to evaluate and convert PDF documents into editable files, meaning your language team can translate foreign language documents quickly and easily. This improves the quality of the translations as well as the level of leverage obtained when applying translation memory or machine translation to the process.



Machine translation

Machine translation (MT) has, over the past 20 years, really changed the translation landscape, but the legal field (along with areas such as medical and financial) has been one of the last to really adopt this trend. The need for accuracy has put people off in these fields, and should absolutely not be used in all circumstances, but when dealing with huge volumes of files, this technology should not be overlooked.

Imagine how costly (and time consuming) it would be to professionally translate every piece of multilingual data identified as part of the case. Whilst a qualified human translator and proof-reader are essential for the latter stages of the process, enhanced machine translation can be used during both the processing and review stage of eDiscovery, to gain a general understanding of the foreign language documents. Machine translation allows you to process large volumes of data very quickly, and at a very reasonable cost.

MT engines can be customised to the data type and subject matter in question, in order to provide a greater level of accuracy of the translation output.



Language detection technology

During the data processing phase, it may be the case that new languages which were not previously realised rise to the surface. A human may be unlikely to pick up on this, but language detection technology could play a vital role in helping you to pick up important files that might otherwise go unnoticed.



eDiscovery platform integration

Many case teams will use an eDiscovery platform (such as Relativity) to help them gather, manage, store and unitise their case documents. System integration is key for process optimisation and automation, so make sure your language service provider can seamlessly plug in their translation management system into your eDiscovery technology.

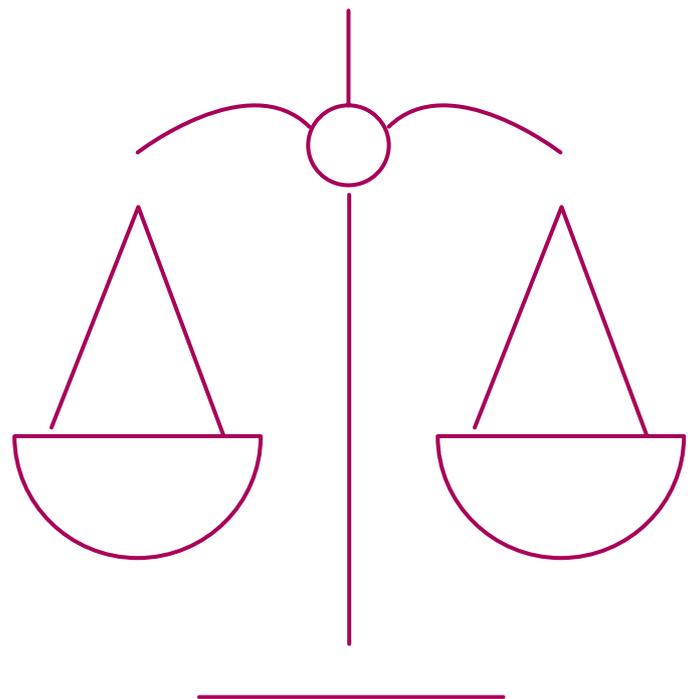
By integrating these systems, data can be picked up and automatically sent to the customised machine translation engines, before being automatically translated and summarised into English, and returned to the eDiscovery platform, conveniently to the same source location.

This not only simplifies the whole multilingual review process, but provides the content you need quickly, inexpensively and securely, as data movement between parties is kept to a minimum.

Conclusion

Working with a language service provider right from the initial stages of the litigation process is vital for success in global cases. It is necessary to find a balance between using specialised linguists and tailored technology in order to meet deadlines and keep costs down, but also provide the quality your clients deserve and have the right to.

The more organisations continue to do business overseas, the greater need there will be for international litigation cases, so it's time to put your language needs at the forefront of your litigation strategy, and time for language service providers to react and innovate to the lack of geographical boundaries.





Find out more about how partnering with Capita gives you the assurance of quality, global reach and trusted delivery on time, every time by visiting:

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