



On the Translation Strategies of Citations in Common Law Cases

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Abstract

Taking *GRANITE ROCK CO. v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS ET AL.* as a research object, the present paper focuses on the translation of citations in the above mentioned case. Legal citation, a peculiar appearance in legal texts of common law system, is widely used in common law cases. Understanding the translation strategies and principles of legal citations is of great significance to retrieve law reports of common law system. In this paper, several types of citations are listed and their specific translation strategies in accordance with their structural features are illustrated with typical examples from the source text, and, then, translation principles of citations as well as some problems come across in translating citations are analyzed. Finally, by way of conclusion, the difficulties encountered and lessons learned in the translation process are summarized.

Keywords: Case Law; Citations; Translation Strategies

INTRODUCTION

Based on the proceedings and effective judgments, common law system regards case law as the subject. Citation is used in the caption of each law reporting and each formal judgment. As a particular and common linguistic phenomenon of legal English in common law cases, citation is the source of law reporting, statute law, regulations, archival data and some other kinds of documents. Accordingly, citation must be used in brief, memorandum of understanding and other statements of legal writings.

We choose as a sample of study *GRANITE ROCK CO. v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS ET AL.* which is an official document emanating from Findlaw (a free legal database with searchable collections of cases and codes, legal news, and an online career center). We realize that a proper understanding of citations is crucial for readers to have command of the key content of cases while reading and analyzing common law cases. The translated text entitled *GRANITE ROCK CO. v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS ET AL.* is a case decided on June 24, 2010 by United

States Supreme Court. In this case, the petitioner is Granite Rock Co., and the respondents are IBT and Local 287. Decided by both District Court and Appeal Court, the case was finally held by Supreme Court of United States. The judges of Supreme Court specified all disputes in the case by quoting many acts and legal precedents in order to make a conclusion clearly and correctly. As a typical case of common law in United States, *GRANITE ROCK CO. v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS ET AL.* is one of the most important sources for us to analyze the strategies employed in translating legal citations.

CITATIONS IN COMMON LAW CASES

Citation is a kind of linguistic phenomenon peculiar to common law system. In order to introduce the unique composition of a citation, we set two typical citations of law reported in United States as examples:

(1) **Taglianetti v. United States, 394 U.S. 316, 89 S. Ct. 1099, 22 L. Ed. 2d**

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302 (1969) (He, 2007, p31)

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① *Taglianetti v. United States* is names of both parties in a case and the name of the case.

② 394 U.S. 316: The number, 394, means the serial number of volume in a law reporting. U.S. is the name of a law reporting. The number, 316, means the first page of the case in a law report.

③ 89 S. Ct. 1099: The number, 89, means the serial number of volume in a law report. S. Ct. is the name of a law reporting. The number, 1099, means the first page of the case in a law report.

④ 22 L. Ed. 2d 302: The number, 22, means the serial number of volume in a law report. L. Ed. is the name of a law report. 2d means the number of edition of a law report. The number, 1099, means the first page of the case in a law report.

⑤ 1969: It means the decided year of a case.

The above citation indicates the basic information of the case in a law report. The judgment of *Taglianetti v. United States* could be found in three law reports, *United States Reports* (美国判例汇编), the 394th volume, page 316; *Supreme Court Reporter* (最高法院判例汇编), the 89th volume, page 1099; and *United States Reports, Lawyers Edition* (美国判例汇编律师版), the second edition, the 22nd volume, page 302. And the case was decided in 1969.

(2) **Stone v. Schmidt, 398 F. Supp. 2d 768 (W.D. Wisc. 1975)**

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① *Stone v. Schmidt*: names of both parties in a case and the name of the case.

② 398 F. Supp. 2d 768: The number, 398, means the serial number of volume in a law report. F. Supp. is the name of a law report. 2d means the number of division in a law report. The number, 768, means the first page of the case in a law report.

③ (W.D. Wisc. 1975): W.D. Wisc. is an abbreviation of a district court which makes the decision of the case. 1975 means the decided year of the case.

If the content of a citation comes from the Federal Supplement (F. Supp.), F. Supp. 2d and F. Supp. 3d, the abbreviation of the court's name that makes the decision should be placed at the end of the citation but before the decided year.

It follows that fundamental messages of a citation include the name of a case, the source of a judgment, such as volume, name of law reports and page; the court and the decided year.

TYPE OF CITATIONS IN THE TRANSLATED TEXT

Sarcevic's (1997) "equivalence in legal translation" analyzed and compared the equivalence between the source language and the target language of legal terminology. The translation of legal text belongs to authoritative translation in legal effect, which requests the higher quality of target text than non-authoritative translation. For that reason, translators are supposed to overcome the difference of language structure and lexical expression between both civil law system and common law system in translating legal citation so as to make the target text exert the same function and legal effectiveness. Translators are expected to abide by certain principles in seeking for the uniformity between the legal source text and translated text in order to gain the appropriate expression form of the translated text.

Du Jinbang, one of the most accomplished legal linguists, has summarized three principles of legal expression and translation. First, the legal target text should conform to the features of legal language. Second, translators should seek common grounds while reserving differences in the process of translating legal texts. And finally, it is indispensable for translators to exercise the strategy of compensation when comparing two different systems of law (Du, 2005, p.12).

Conforming to the Features of Legal Language

The legal target text should conform to the features of legal language. The principle requests that the target text should be accurate, logical and following the expression habit of target language in both content and form. For instance,

(1) It is of course true that we have construed "Section 301 to authorize federal courts to fashion a body of federal law for the enforcement of collective bargaining agreements." *Lewis v. Benedict Coal Corp.*, 361 U. S. 459, 470 (1960) (citing *Lincoln Mills*, supra).

我们对第301条的解释是，在处理劳资关系合同的执行问题时，该条款赋予联邦各法院对联邦法律做出新的解释的权利，这一点毋庸置疑。见路易斯诉本尼迪克特煤矿公

司案, 《美国判例汇编》第361卷第459页, 第470页 (1960年判决) (引用林肯米尔斯案, 见上述注释)。

In the above case, “v.” is the abbreviated form of “versus” that has several semantic meanings for translators to select in the process of translating legal text (Zhou, 2010, p.170). While translating the legal citations, however, translators should abide by the principle of conforming to the features of legal language so as to translate “v.” into “诉” or “起诉”.

Seeking Common Grounds While Reserving Differences

Translators should also seek common grounds while reserving differences in the process of translating legal texts. If there is non-equivalence of legal terms and concept between both common law system and civil law system, it is essential to adopt the original term and concept of target law system while transforming to a different legal language. Translators might use the way of analogy to make an adjustment of structure in translating citations. Take the following as an example:

(2) *Brazinski v. Amoco Petroleum Additives Co.*, 6 F. 3d 1176, 1180 (CA7 1993).

辛斯基诉阿莫科石油添加剂公司案 (1993年判决), 《联邦上诉法院判例汇编 第3辑》, 第6卷, 第1176页, 第1180页。

The number in the bracket means the decided year of the case, which is usually put at the end of the citation in English. We rearrange the decided year in the bracket behind the name of the case while translating the citation with the application of the principle on seeking common grounds while reserving differences. The rearrangement of word order in Chinese target text avoids the difference in form for legal language in both Chinese law system and common law system so as to retain its function of “expressing the decided year”.

Supplying Necessary Words While Comparing With Different System of Law

It is suggested that translators exercise the strategy of compensation when comparing two different system of law. The principle means that auxiliary explanatory words should be added in the target text if there are similar concept in common law system and civil law system, and therefore, it could be regarded as a way of compensation to the meaning of citations for translators. An example in point goes as follows:

(3) In *Buckeye*, the formation of the parties' arbitration agreement was not at issue because the parties agreed that they had "concluded" an agreement to arbitrate and memorialized it as an arbitration clause in their loan contract. 546 U. S., at 444, n. 1.

在七叶树案中, 双方当事人仲裁协议的生效问题并不是待裁决问题, 因为双方当事人同意缔结仲裁协议, 并在他们的借贷合同中建议将仲裁协议作为仲裁条款使用。见《美国判例汇编》第546卷第444页, 脚注1。

“U.S.” is a common abbreviation in English which means “United States (美国)” in general. In legal citations, however, “U.S.” always means “United States Reports (美国判例汇编)”. It is a required principle to provide necessary words to express the full meaning while comparing with different systems of law.

CONCLUSION

In an attempt to understand citations which are to assist to analyze and comprehend common law cases, the current study explores in details the difficulties and possible resolutions for translating citations in common law cases. On the basis of the translation of *GRANITE ROCK CO. v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS ET AL.*, the paper introduces and illustrates the structure and translation strategies of legal citations with some typical examples selected from the source text. It is found that the structure of citations is much more complicated, for it covers a great number of citations with various different forms. Therefore, translators are supposed to analyze the structure of the target citation, and then figure out its accurate meaning of each part in a citation through checking with relevant reference materials. It is essential that the translation rules of principles of citations be observed with a certain degree of flexibility.

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