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Lost in translation

Miquel Montaña (Clifford Chance) · Thursday, April 5th, 2012

One of the challenges of patent litigation in Spain is that our Civil Procedure Law is somewhat more formalistic than the laws of some other EU Member States, which would normally accept documents filed in English. Under article 144 of the Civil Procedure Law, parties are required to file a translation of documents written in languages other than Spanish. In complex patent cases this is a bit of a challenge, since it is usual for most of the prior art documents, for example, to be written in English or other foreign languages.

To try to cut down on translation costs, one could be tempted to translate only the parts of the document that are relevant to the case. However, what may be irrelevant to one party, may be relevant to the other, and the other way round. Also, if the party that submits the document was allowed to decide which part of the document is relevant, Courts would be prevented from assessing the relevance of the non-translated parts of the document. This is why, for the purpose of guaranteeing the other party's right of defense and ensuring Courts have access to the entirety of the documents submitted, most Courts normally require parties to file a complete translation of the documents submitted.

Although this might increase the cost of the proceedings, it appears to be the only way to avoid Courts getting lost in translation.

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