

Strategies for Lawyers to Win More Business from the Lucrative Chinese Market



Covid-19 did not stop our interpreters from providing services to Australian courts through online remote interpreting

Whatever language we speak, we know the importance it plays in the courtroom. Smooth talking barristers use language as a tool to win a battle, but employing intonation, leading questions, and double negatives will not elicit the required response if the client doesn't speak English well. It is highly risky and your well-prepared case is going to unravel.

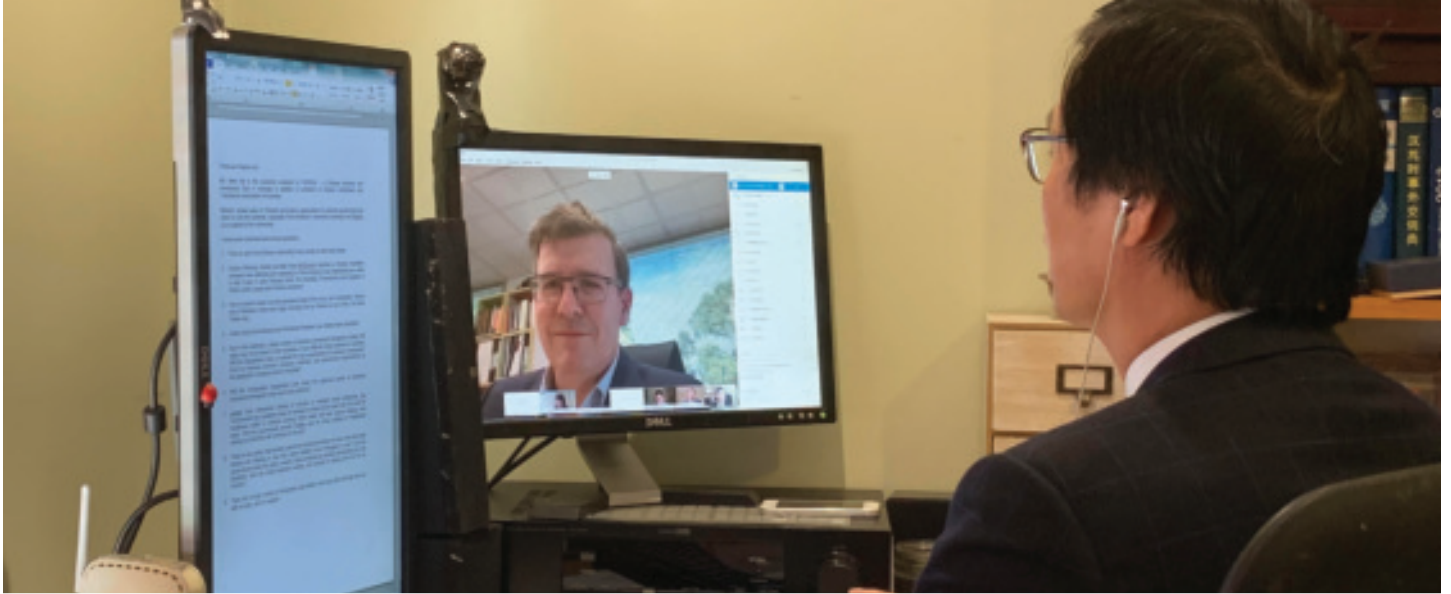
Your potential clients will be more familiar with the Chinese legal system, which works in a very different way to ours. The system is opaque under the rule of the Chinese Communist Party, where hierarchy and money may dictate who wins. Australia's Rule of Law system is at the opposite end of their spectrum and will not be easily navigated.

Chinese clients in Australia can provide a valuable and growing area of work for lawyers and language and cultural understanding can unlock this opportunity. Our white paper offers eight strategies to open up a valuable funnel of new work for you and to give you and your new clients the best outcome.

WINNING NEW CLIENTS - RELATIONSHIPS DELIVER WORK FROM CHINESE

More and more Chinese businesspeople are setting up in Australia and Chinese businesses investing in, partnering with, or establishing operations in Australia. There is a growing need for legal services in this sector as this group does not have an understanding of Australia's legal system. The solution for you lies in finding a good translation service to help you.

Trust and relationships or networks are of vital importance to Chinese, especially new arrivals. Faced with a problem and



Zoom or other platforms work well for all types of meetings and court interpreting

in a new country, Chinese will reach out to their contacts for help. We are frequently asked for recommendations for lawyers to help in family law, migration, conveyancing, but most significantly in disputes or commercial matters. Loss of face is a big motivator, so rather than try to settle a matter through negotiation, many Chinese will want to launch into litigation right away. Budgets are often not an issue when a win is the most important consideration.

A win is key not just to the client, you will benefit from subsequent referrals and more work will follow.

Eight Strategies For A Winning Case

1. CHOOSE YOUR OWN TRANSLATOR/INTERPRETER

Control the language: get your own language expert – an experienced, qualified translator and interpreter – from the outset. And just to be clear – interpreters ‘translate’ speech and translators ‘translate’ written materials – you’ll need someone qualified in both on your team.

When you don’t speak another language, sometimes the significance of translation is lost; we often hear the judge say: “just give us a word for word translation”. Well, you know that

is nonsense. Language does not work like that. In addition, unfortunately, not all interpreters are up to scratch – their language skills and knowledge of Australia and its legal system will vary greatly and can mean justice is not done. Would you want to risk the court appointed interpreter?

2. GET TRANSLATION HELP TO TRIAGE DOCUMENTS

You are likely faced with a barrage of documents in Chinese: agreements, emails, and reams of WeChat (social media) messages, handwritten screeds, even voice message recordings Some are, no doubt, irrelevant; some will be critical to building your case. But where to start? You need language support from an expert translator to sift and triage the pile.

3. MITIGATE CULTURAL ISSUES WHICH WILL IMPACT YOUR CASE

Chinese culture gives rise to significant differences which will impact your work. For example, the issue of ‘face’ and ‘relationships’ mean that business is often done without legal contracts, based on relationships and negotiated on a social media communication app WeChat (also needing careful translation).

A recent study into court cases in New Zealand involving Chinese parties, illuminates a host of issues Chinese faced in legal action. In addition to communication difficulties preparing for

court were different cultural expectations, discrimination, cross-cultural challenges and legal fees.

Issues highlighted in the study include:

- / participants believing they or their lawyer can pull strings;
- / lack of familiarity with the legal system;
- / misunderstandings about fees (success fees!);
- / wanting to win rather than settle a case;
- / assumptions that their status and wealth may ‘buy influence’;
- / the feeling that ‘shame’ will come from a loss;
- / the need to be deferential or overly polite to save face; and
- / saying what you think the lawyer or judge wants to hear.

China is a society where being too direct (or blunt) is not acceptable but which a court might see as evasive behaviour; where a person’s face should be protected and a lack of English understanding masked; even fear is a powerful force when you don’t know what to expect or what is happening. Good preparation and help from your language team for your client and witnesses will be valuable.

4. PROVIDE MATERIALS AND PREPARATION TIME FOR THE INTERPRETER



Even the Lord Mayor and Melbourne Town Hall valued the use of remote interpreting during Covid-19.

To get the best result, just like your legal team, the interpreter needs to prepare thoroughly. What we often hear is “No, I can’t provide the interpreter with any information about the case in advance – it’s confidential”. Interpreters are not “walking dictionaries” who will immediately grasp the essence of the case, its terminology and the parties involved.

Having the interpreter as part of your team will give you a big head start. Communicate in plain English as clever linguistic devices will usually not work in translation. Speak in the first person; not “Ask him ...”. A good interpreter will help deliver the information you need.

5. CHECKING UP ON THE OFFICIAL COURT INTERPRETER

You may not have control over who the court engages as the interpreter for a case and it could be a case of ‘lucky draw’, however, you can still have your own interpreter in your corner. They can listen for critical interpreter errors, look for important evidence and identify significant points for your barrister.

They can be a great asset to you during the case and in the preparation leading up to it with instructions and interviews.

6. EMPLOYING REMOTE INTERPRETING

In these days of ‘Zoom’, a good interpreter can help connect everyone and keep the flow going back and forth. Good

interpreters are adept at using remote platforms and can build confidence and help ease the burden on all participants.

7. BOOK YOUR INTERPRETER EARLY

There might be dozens of potential interpreters out there, but lawyers will find the good ones they want on their side. Consider booking your preferred interpreter early on and get them involved in the preparatory work and written translations to help build a strong case. A good interpreter will ensure the language issues are taken care of, so that you can focus your energy on your own work.

8. CONSIDER CULTURAL TRAINING

Culture and language issues need to be mitigated through careful preparation. The interpreter can provide cultural guidance to help cut through the layers of ‘etiquette’ and help you and your client navigate the legal process and get all the relevant instructions. Debriefing at the end of a day’s proceedings is a good idea so that the client is kept up to speed and has the opportunity to raise other points. Sometimes a vital piece of new evidence will come to light.

As we’ve seen, interpreters and translators are linguistic experts as well as cultural navigators. They can greatly aid lawyers in building a case. A cultural briefing could be a great starting point for a law firm targeting the Chinese market.

Chin Communications - A Critical Partner

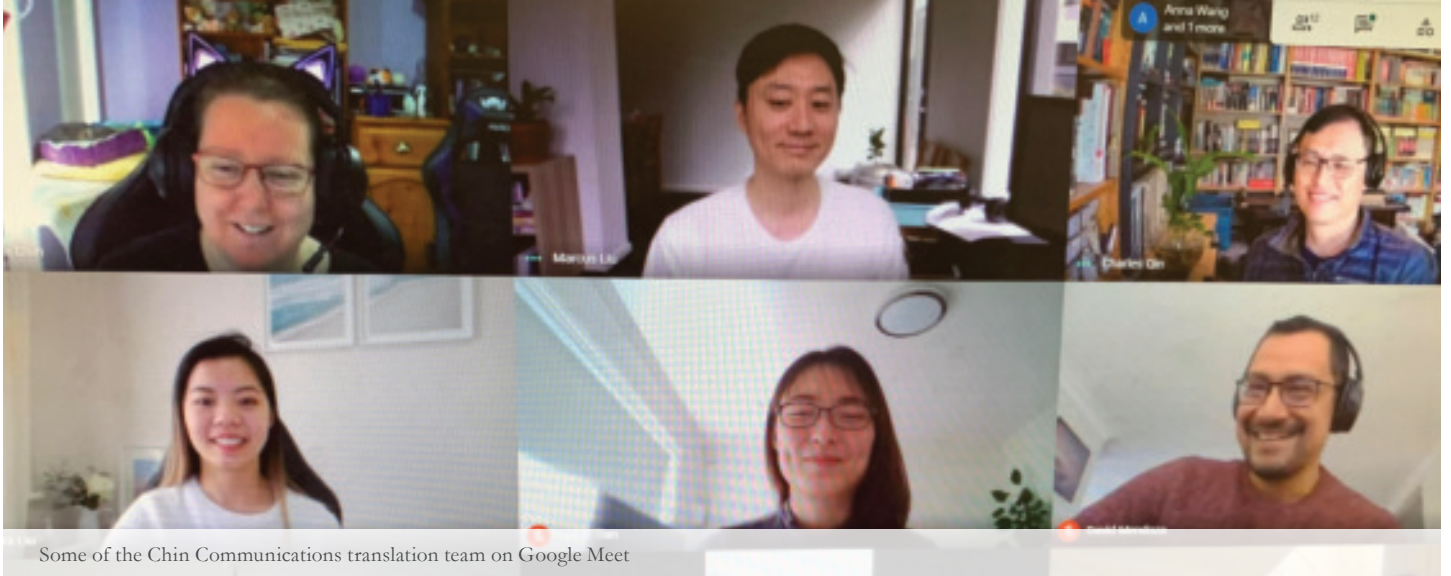
“Yingde Investment Pty Ltd has recently won a multi-million dollar Supreme Court case in which Chin Communications was a critical partner. Their translating and interpreting work not only helped build our arguments but in the court discovered critical pieces of evidence which bolstered our case. They also picked up court interpreting errors that could have changed the course of the case.”

The case was extraordinary because all the evidence was in Chinese and the witnesses didn’t speak English. Their consistent support with translation made the difference.”

— Wade Guo,
Yingde Investment Pty Ltd

DOES YOUR CLIENT NEED AN INTERPRETER?

Indeed, it might seem as if your client can speak English well; Chinese clients are unlikely to pipe up if they don’t understand – that would be a loss of face. Face is ever present in litigation and clients don’t want to be embarrassed and will certainly adopt a win-at-all-costs approach. Having an interpreter involved in meetings and in court will ensure your client has the best chance. Under the pressure of a strange court room and



unfamiliar legal system, having to answer difficult questions and speak in public is a challenge for anyone. The answer is always: find a good interpreter.

CAN A LAWYER ACT AS AN INTERPRETER/TRANSLATOR?

There are numerous instances of bilingual lawyers acting as interpreter and translator for a client. Judge Kunc (Kunc, J in NSWSC 1464) observed that “interpreting and translating are highly skilled occupations, and professional interpreters adhere to a professional code of ethics which emphasises the importance of professional competence, accuracy and independence. Even a solicitor who is a qualified interpreter must not act as an interpreter in his/her own cases – what if the solicitor had to give evidence about his/her interpreting – conflicts of interest and bias would be raised”. There are also cases where the lawyer failed to arrange an interpreter and had costs awarded against him (Zhou and Zong, 2018).

You don’t want to get caught out with these kinds of basic errors.

POOR LANGUAGE SERVICES CAN COST YOU MORE THAN THE CASE.

There are countless cases of overturned convictions – including for serious charges, of aborted trials, wrongful convictions, and incorrect comprehension of bail conditions or sentences. In fact a 2010 research project cited 119 appellate cases in which the standard of interpreting was one of the

grounds for appeal . The standard of interpreting was the issue – not the lack of an interpreter.

The case of Chinese superstar swimmer Sun Yang in the Court of Arbitration for Sport demonstrates that it is not just money and power that ensures good translation. With a strong legal team and the best legal advice he could choose, they made a fatal error in their choice of interpreters. Sun Yang wasn’t facing jail, but his future and livelihood was being determined and he couldn’t defend himself. He was banned for eight years.

CONCLUSION

With Chinese migration, investment and business partnerships mushrooming, there is a growing opportunity to tap into their need for legal services. While they will want competitive fees, when it comes to litigation, it is often win at all costs.

Word of mouth is a powerful force in Chinese circles, back that up with Chinese content on your website to appeal to decision makers; you may also need language support when the clients start to call you.

Success and the building of trust will lead to referrals and more work. Language and culture are barriers that need to be overcome, however. Scrimping on these services will lead to failure, while having a reliable translation service on tap could secure your future.

To find out more or lock in one of our translation experts for your case, call our team now on 1300 792 446.

REFERENCES

- / Recommended National Standards for Working with Interpreters in Courts and Tribunals, published by the Judicial Council on Cultural Diversity (JCCD)
- / AUSIT Code of Ethics and Code of Conduct
- / Guidelines for Lawyers on Working with Interpreters, Professor Sandra Hale
- / Culturally and Linguistically Diverse Parties in the Courts: A Chinese Case Study, Mai Chen
- / Jen McMillan, Flipstream, 10 April 2019

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