

Using Genre Analysis to Teach Contract Negotiation Discourse Practices

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Abstract : Contract negotiation is fundamental to commercial law practice. For this study, genre and discourse analytical methodology was used to examine the legal negotiation of a Merger & Acquisition (M&A) deal undertaken by legal and business professionals in English across different jurisdictions in Europe. While some of the most delicate negotiations involved in this process were carried on face-to-face or over the telephone, these were generally progressed more systematically - and on the record - in the form of emails, email attachments, and as comments and amendments recorded in successive 'marked-up' versions of the contracts under negotiation. This large corpus of textual data was originally obtained by the author, in 2012, for the purpose of doctoral research. For this study, the analysis is particularly concerned with the use of emails and covering letters to exchange legal advice about the negotiations. These two genres help to stabilize and progress the negotiation process and account for negotiation activities. Swalesian analysis of functional Moves and Steps was able to identify structural similarities and differences between these text types and to identify certain salient discursive features within them. The analytical findings also indicate how particular linguistic strategies are more appropriately and more effectively associated with one legal genre rather than another. The concept of intertextuality is an important dimension of contract negotiation discourse and this study also examined how the discursive relationships between the different texts influence the way that texts are constructed. In terms of materials development, the research findings can contribute to more authentic English for Legal & Business Purposes pedagogies for students and novice lawyers and business professionals. The findings can first be used to design discursive maps that provide learners with a coherent account of the intertextual nature of the contract negotiation process. These discursive maps can then function as a framework in which to present detailed findings about the textual and structural features of the text types by applying the Swalesian genre analysis. Based on this acquired knowledge of the textual nature of contract negotiation, the authentic discourse materials can then be used to provide learners with practical opportunities to role-play negotiation activities and experience professional ways of thinking and using language in preparation for the written discourse challenges they will face in this important area of legal and business practice.

Keywords : English for legal and business purposes, discourse analysis, genre analysis, intertextuality, pedagogical materials

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