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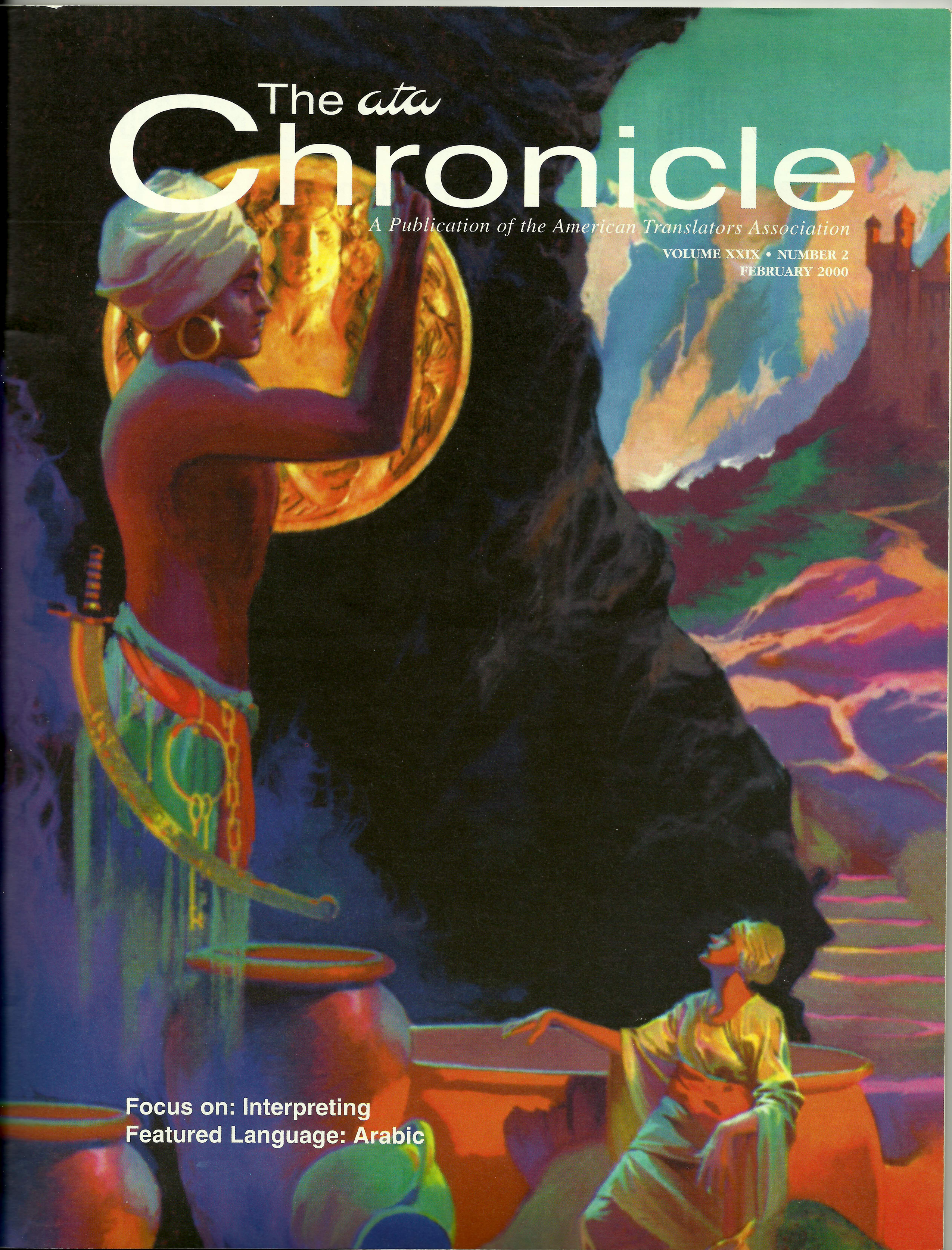

Focus on: Interpreting
Featured Language: Arabic

Interpreting Evidentiary Tape Recordings: The Toughest Job You'll Ever Love, Or Maybe Not....

By Diane E. Teichman

The transcription and translation of foreign-language tape recordings is one of the duties included in the scope of legal interpreting. It is difficult work because it requires tedious time consumption of serious concentration and a repetitive operation all based on a source tape that is often of questionable quality. I must be nuts because I have loved this work ever since, when over 12 years ago, I was handed my first whisper-ridden, undercover tape with the audio quality of a Victrola phonograph record. I have since completed hundreds of hours of tapes, both audio and video, and serve as an expert witness on translated tape transcript quality. In order to lighten the burden of difficulty for my fellow interpreters, I am continuously striving to educate our market on the need for audio quality guidelines.

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Knowledge of A Client's Needs Makes Your Work Easier

The primary concern to the interpreter is twofold: the audio quality of the tape and the terms of the assignment to be agreed upon with the client. The more informed an interpreter is on the conditions and implications set on evidentiary tapes, the easier it will be to deal with the client and to evaluate the job. The clients won't tell you why the deadline is inflexible nor will they admit to not really caring about the poor audio quality. They will only ask when can you get it back to them and how much you will charge. Tapes can be presented as evidence in all areas of litigation, from family law, to criminal law, to civil law. The contents of the tapes are as different as the fields of law. They can range from simple recorded statements taken over the phone for an insurance claim on a vehicular accident, to the undercover recordings made on a body wire in a sting operation. The courts are very accustomed to attorneys offering tape recordings as evidence. Tapes are popular with attorneys because they represent active as opposed to passive evidence. And if it is at all possible for tapes to be played at the trial, they make a more memorable impact on a jury than written exhibits ever could.

But a foreign-language tape recording loses all of its appeal and credibility as evidence if the tape has not been correctly transcribed and translated. More and more judges are throwing out evidentiary tapes that are riddled with errors and omissions. And now, after so many experiences with poor work, litigators have discovered how to challenge such tapes as inadmissible. The result of a successful challenge is not only the loss of that specific evidence, but if it was a key piece (such as a confession), then the entire case can be thrown out. You will also have angry judges who will take it out on the attorneys, who will then take it out on whoever hired the interpreter. The result to the legal interpreter is a seriously damaged reputation that could result in him or her never being hired again. The repercussions reach out to the rest of the profession as well, since more often than not we interpreters seem to be judged as equal in caliber. Omissions in legal interpretation have strict implications that interpreters in other fields don't have to concern themselves with. Legal interpreters are subject to the penalties of perjury, since changing or paraphrasing what is originally said is the same as altering testimony, which is considered lying under oath.

The notion that the contents of a tape will essentially constitute a simple conversation makes this work and the pay very attractive to novice interpreters. However, they soon face the inherent challenges of conversations that have often been recorded under the conditions of emotional stress of fear and panic. Then there are factors like drunkenness, arguing, and many more audio surprises that affect the clarity of the words heard. Often words and syllables are drowned out by background noises. And then there is the delightful discovery of a poor quality audio. When I am assigned to serve as an expert on a tape transcript and learn that the interpreter had little or no experience, I fear finding faulty work. I don't enjoy being the source of censorious judgement, but I believe that it is unethical to accept a job that one is not qualified to perform. Here are a few tips to follow that will help you eliminate the risks involved when working with tape-recorded evidence.

Highly Demanding and Difficult Work

First, out of respect for the judicial system and the guarantee

of a fair trial to all participants, only accept this work if you are qualified. You will be affecting a person's life and, in certain states, in criminal cases you can be involved in a death penalty ruling. Only a qualified interpreter can perform this work and withstand a challenge in court. It is a complete myth to think that a person can interpret, much less do quality tape work, simply because he or she can speak another language. The job involves transcribing and translating an audio or audio/video tape, but we actually combine both procedures into one. Since you are hearing the spoken word, you will rely on your interpreting experience. So, essentially a legal interpreter has the best experience to do this work. You will need to draw on your experience in serving at trials, hearings, depositions, and listening to sworn statements—everyday work in judicial interpreting proceedings. In this way you will become used to the common and slang language used by a variety of people. You will also not be caught off guard by speech patterns that are influenced by the setting and the speaker's focus on their testimony. You will need experience with interpreting for witnesses that are upset and emotional when you work with interrogation and confession tapes. All tapes can include legal terminology, so know your "legalese."

Present Yourself Professionally

Present your qualifications in a concise and written form. Remember that they will be presented in court, so make no false or unverifiable claims. Then educate your client on your procedure, the format of your work product, as well as your terms and fees. Advise your client not to send you the only original tape. Part of your procedure will be to have your client attach your qualifications to your final work product when it is entered into evidence. I also suggest that you attach a signed, dated, and notarized certificate of accuracy consisting of our court interpreter's oath. Advise your client not to send you the only original tape.

Never accept a deadline or assignment without listening to the tape first. Take as little or as much time as you need in order to know how much work and time will be involved. (But if you take too long in this process you can lose the job, so know when you are in over your head.) Legal procedures are time sensitive, so be ready to be very flexible up to the point that your work quality will be affected. You have to be willing to turn down a job if the deadline means you will not provide accurate work. Dividing a job with another person heightens the risk of error, so I don't recommend that. If the deadline is truly unreasonable, the judge can be notified of the factors and reasons and may be able to grant a continuance. In this case, provide your client with a professionally written presentation of the factors and reasons that will be the basis of the request for more time.

The Format

It is important that the printed product be clear and easy to follow, or it will lose credibility. When presented to the judge or jury as an exhibit, more than likely only one section will need to be read, but the whole transcript has to be admitted. You don't want the lawyer standing in court fumbling around trying to find that one section. And the evidence can be thrown out in its entirety if there are errors in only one section.

The format should be in transcript form and double-spaced. It should be printed on plain paper, and not on letterhead. Each page should be titled with the words "Tape Transcription and Translation" along with any additional tape identification. This information can consist of the case style, the case number, or however the investigation has been identified. If there is more than one tape, the tape number along with the side (for example, "Tape 3, Side B") that the transcript comes from should be identified on each page. As a personal preference, I start a fresh page for each new conversation if they occur at later times or dates, even if these conversations are on the same tape. This is because each new conversation can be considered different evidence, and is often referred to separately in court.

Identifying the Speakers on Tape

The transcript of simple recorded statements can identify the speaker and investigator, but it should be noted that these names were provided to the translator by said investigator. I never identify speakers on a tape by name if the tape is being submitted or considered for trial. Translators and interpreters cannot know and prove that a voice on a tape is that of a specific person. This is considered hearsay. Many litigators today hire voice experts to identify a person on a tape, or to prove that it wasn't said person, and they will also use these experts to challenge anyone identifying

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their client based on hearsay.

To avoid any possible misidentification, I prefer to list the speakers on a tape as Male Voice One, Female Voice Two, and so on. The enumeration is according to when they came on the tape as a speaker. I do not try to distinguish between child and adult.

Identifying the Limitations of the Tape Itself

In this work, it is recognized that even top professionals will inevitably come across limitations to being able to provide a true and accurate interpretation of the words spoken. That's the good news. The bad news is that your client may expect miracles from you anyway. The advance presentation of the format will help you educate your client.

Even if a couple of syllables are missed from a word, the interpreter would have to guess or estimate what the person meant to say. A legal interpreter cannot do this at any time. This is not an option for tape work, and will come under the scrutiny of the court. The oath we swear to indicates that we will interpret to the best of our ability, therefore we must inform the court and our client of any limitations.

The following terminology is used within the transcription to indicate that a word or group of words could not be identified. Develop a key or glossary page to attach to each presentation of your final work product.

Inaudible is used when words cannot be heard. This can be due to sounds or noises that drown out the speaker, for example, slamming doors, car horns honking, anything crashing, gun shots, explosions, squealing tires, and sirens. It is also used when the tape recorder fails or cuts off temporarily. Speakers at a distance may not be heard, although they will be responded to by other voices. This term is also used when a speaker's voice trails off at the end of their sentence.

Unintelligible is used when the words were heard as spoken, but cannot be specifically deciphered. This can be caused by human sounds that interrupt or coincide with the spoken word, such as coughing, sneezing, crying while talking, choking or gagging, screaming, and mumbling. A body wiretap microphone can also rub against clothing and muffle parts or complete words.

Mixed Language is a term indicating that the sentence includes words already spoken in the target language or even another secondary language. You can request that these words be underlined to demonstrate the person's use of certain words in the target language.

Broken Language indicates words that are not acceptable as correct usage in either language. When speakers are not yet fluent in the target language but forget their source language, the result is broken language. For example, a speaker will revert to broken Spanish by adding a Spanish prefix or suffix to a verb in English to force it to translate ("pushear" for to push). If applicable, you can explain this limitation in your translator's notes. Again, I hold true to the rule of not guessing, and such broken language can be very vulnerable in court. Don't make your work vulnerable as well.

Standard Procedure

The procedure is to listen to each sentence repeatedly until what is said is clear. Sometimes even one or two words will have to be replayed before the rest of the sentence falls into place. An entire section will have to be replayed whenever a speaker talks very fast, when two or more people talk over each other, or when they speak in whispers. Do not shy away from whispering, since a whispered sentence can be understood if the volume can be turned up and the speed slowed down. I have uncovered key evidence in a whispered sentence. It is even possible to separate what is said when two people are talking over each other, as long as the two voices are distinguishable and are speaking at the same decibel level. It is actually more difficult to identify one word by itself than it is to decipher a group of words. People inflect more and speak more clearly when saying several words.

Do not fall victim to the temptation to make assumptions about what the rest of the sentence was or what a person would say in such a circumstance. Do not allow preconceived notions of a response or reaction to filter into what you hear. Don't count on a speaker to be consistent. Right when you are confident that you have the words down, just play it one more time and you will hear something completely different. I have found this to be especially true if I allow a day to lapse between replaying a difficult section. Also, the less you know about the case the better.

Your Working Environment

This will be critical to the quality of your work. You will need a comfortable setting. You will need to shut off the phones and all other possible sounds like the radio, chiming clocks, and music. Use a transcribing machine that allows you to slow down the tape and replay it, or use a high-quality tape player. Work healthy: lack of sleep and low energy will affect your listening abilities, and you will suffer from what is known as "audio mirage."

When time is not a factor, some people transcribe the tape directly from the source language and then translate the written transcript into the target language. Others, including myself, prefer to translate the audio directly into the target language while listening. I will still replay and review my work from beginning to end before handing it to a proofreader. Once completed, the transcripts are proofread and printed up. In order to protect the integrity of the evidence, a proofreader should only review it for typographical errors, not grammar. People don't always use correct grammar while speaking, especially in tape evidence.

Here are the factors that affect your ability to produce an accurate rendition when you do have intelligible and audible speakers.

Deadline and Turnaround Time

As a rule, an eight-minute segment of a good quality recording can take at least an hour to transcribe and translate. Keep this in mind if you are asked to give a quote in advance.

The Audio Quality of the Tape Itself

Certain kinds of tapes are more reliable than others. For example, micro cassettes and copies of copies can reduce the song "Mary Had A Little Lamb" to undecipherable dribble. However, this kind of tape is more efficient for undercover surveillance purposes. If given a choice, choose standard size tapes.

Reviewing the Work of Others

There are two ways to proceed if you are hired to review tape work done by another interpreter. One is to review the tape audibly while reading their transcript in the target language. I find this causes me to be swayed by the inference of words I may not immediately hear, and I fall into the trap of pre-existing mistakes. The most efficient way is to perform your own individual interpretation and then compare the two final transcripts.

Don't play judge and jury over a fellow professional interpreter. You may not find any errors in a transcript. Often we are pitted against each other by the opposing parties. Let's not lower ourselves to that level. Many people don't realize that legal interpreters are unbiased and disinterested in the outcome of the case. By acknowledging a fellow professional's credentials and excellent work, you are helping to educate our market.

Quite often I come across tapes on which persons serving as an interpreter were thought to be bilingual, but they didn't have a full command of the target or source language, much less any training and experience. I like to call them "throw down interpreters." These people can range from available employees at a sheriff's department to an entry-level clerk with a foreign last name. Once they start to face the tedious difficulties of interpretation, in frustration they will invent words, paraphrase, or actually use totally incorrect terms. This will ruin the interpretation of a sentence that otherwise makes perfect sense. It is also common for such individuals to skip parts because they do not understand long-winded or rapid-fire responses. On a more serious note, I often see the incorrect translation of "to deny" and "to refuse" substituted with "don't really want to."

One of the reasons why people use "throw down interpreters" is that second or third generation immigrants in this country are often expected by employers to have the same interpreting skills as a professional. The culprit is the confusion with the term bilingual and the skill of interpreting and translating, which is all too common in our market. Either out of fear of demotion or a desire to not make waves in the company, the "throw down" will take on the task without any training. After the product is proven to be riddled with mistakes and the case possibly lost, time and time again I hear the same feeble excuse, "I never had done that kind of work before."

So, if you apply the same respect for the professionalism of your interpretation to this tedious task, you can produce work that you will genuinely be proud of. And maybe, just maybe, you will grow to love tape work, like I do.

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