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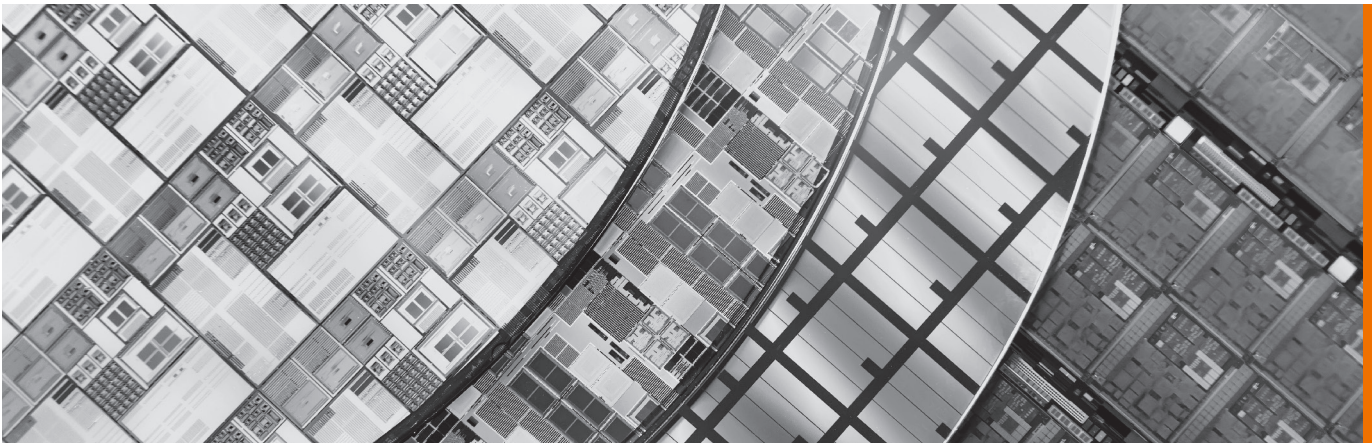
Practical cross-border insights into technology sourcing

**Technology Sourcing
2022**

Second Edition

Contributing Editor:
Mark Leach
Bird & Bird LLP

ICLG.com



ISBN 978-1-83918-206-8
ISSN 2752-6909

Published by

glg global legal group

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Printed by
Ashford Colour Press Ltd.

Cover image
www.istockphoto.com

Strategic Partners



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Expert Analysis Chapters

1

Contracting for AI Solutions

Mark Leach & Will Bryson, Bird & Bird LLP

6

A Bird's-Eye View: Strategic Sourcing Across Technology and Business Services

Kerry Hallard, Global Sourcing Association

Q&A Chapters

10

Australia

Bird & Bird: Hamish Fraser, Kate Morton & Natalie Yeung

18

Belgium

Astrea: Steven De Schrijver & Rudi Desmet

26

Canada

McMillan LLP: Robert C. Piasentin, Greg Johns, Yue Fei & Gurp Dhaliwal

34

France

Dana Law: Raphaël Dana, Emma Fadda & Tressy Ekoukou

41

Germany

Fieldfisher: Dr. Felix Wittern & Kirsten Ammon

48

Greece

Kyriakides Georgopoulos Law Firm: Konstantinos Vouerakos, Elisabeth Eleftheriades, Dr. Victoria Mertikopoulou & Constantinos Kavadellas

58

Hong Kong

Bird & Bird: Clarice Yue

67

India

Tatva Legal, Hyderabad: Nageswara Rao & Suadat Ahmad Kirmani

73

Japan

TMI Associates: Makiko Yamamoto, Tomoo Shibano, Rie Taiko & Takuya Yamago

82

Nigeria

Ikeyi Shittu & Co.: Josephine Tite-Onnoghen & Ebube Nwobodo

90

Pakistan

AUC | Law: Ahmed Uzair, Amar Naseer, Muhammad Haider Zaidi & Muhammad Saqib Qadeer

98

Philippines

ACCRALAW: Leland R. Villadolid, Jr., Chrysilla Carissa P. Bautista, John Paul M. Gaba & Erwin Jay V. Filio

105

Singapore

Bird & Bird ATMD LLP: Jeremy Tan & Chester Lim

112

South Africa

Norton Rose Fulbright South Africa Inc: Nerushka Bowan & Preshanta Poonan

117

Sweden

Wistrand Law Firm: Erik Ullberg, Carl Näsholm & Michaela Örtberg

125

Switzerland

TIMES Attorneys: Martina Arioli

133

United Kingdom

Bird & Bird LLP: Mark Leach & Will Bryson

145

USA

Bryan Cave Leighton Paisner LLP: Sean Christy, Chuck Hollis, Derek Johnston & Anne Friedman

From the Publisher

Dear Reader,

Welcome to the second edition of *ICLG – Technology Sourcing*, published by Global Legal Group.

This publication provides corporate counsel and international practitioners with comprehensive jurisdiction-by-jurisdiction guidance to technology sourcing laws and regulations around the world, and is also available at www.iclg.com.

This year the expert analysis chapters cover contracting for AI solutions, and strategic sourcing across technology and business services.

The question and answer chapters, which in this edition cover 18 jurisdictions, provide detailed answers to common questions raised by professionals dealing with technology sourcing laws and regulations.

As always, this publication has been written by leading technology sourcing lawyers and industry specialists, for whose invaluable contributions the editors and publishers are extremely grateful.

Global Legal Group would also like to extend special thanks to contributing editor Mark Leach of Bird & Bird LLP for his leadership, support and expertise in bringing this project to fruition.

James Strobe
Publisher
Global Legal Group



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A Bird's-Eye View: Strategic Sourcing Across Technology and Business Services

Global Sourcing Association



Kerry Hallard

From very early on in 2022 everyone in our industry that I have spoken to has been what can only be described as “bonkers busy”. The technology and business services industry is probably enjoying its biggest economic boom ever – or certainly the biggest since Y2K. Working with Everest Research, we had predicted *circa* 5% annual growth throughout 2021, but the actual growth was astounding: 8–9% growth across business services and a whopping *circa* 20% growth in IT outsourcing.

The industry continues on a very positive platform at the moment and in my honest opinion it fully deserves the success it is currently enjoying, as the industry’s response to the crisis situation when the pandemic hit was phenomenal.

As detrimental as the pandemic has been for so many industries, it has brought around some very positive change for both the sourcing and delivery of technology and business services. Digital projects that had been waiting in the wings for months, if not years, pre-pandemic went into full flight mode during lockdown, and guess what? They delivered. Quite often beyond expectation. Leaving teams and organisations with an appetite to transform more – hence everyone being “bonkers busy” and these huge growth stats.

Not only is the industry growing a lot, but it is also changing a lot. This year the Global Sourcing Association (originally known as the National Outsourcing Association) celebrates its 35th birthday and I believe we have seen more change in the last two years than we have seen in the last 20 (since the advent of offshoring).

With such opportunity comes challenges and the biggest challenge we face is the war on talent. There are currently one million unfilled roles in the UK. It is widely acknowledged that these roles are across professions such as: haulage drivers; chefs; and data scientists. However, the massive lack of available talent we have in technology and business services is less reported. Attrition across customer service is at an all-time high. The talent crisis is not just in the UK – it is also hurting the US and much of Europe. Salaries for software engineers in Poland increased by 35% last year and continue to escalate. These workers are reportedly acting like “rock ‘n’ roll stars” where they can pick and choose which projects they work on and on what terms. This constant jumping ship for higher salaries can only end in one place – poorer service delivery and higher inflation.

As optimistic as I am, I have a very real concern for the industry. Companies are so hell-bent on delivering beyond their growth targets that they could be being overzealous about their ability to deliver, potentially resulting in organisations over-promising and under-delivering. Here are some startling stats:

- Cognizant plans to hire 45,000 graduates in Q4 with attrition rising to 33%.
- Tata Consultancy Services (TCS) has the lowest attrition of the Indian service providers at 11.9%.

- According to Microsoft, there will be a shortage of 160 million tech workers in 2025.

This is the perfect storm. Huge demand, but not enough available talent to meet it, resulting in projects being delivered either below par, over time or over budget – and potentially all three. We could see the industry revert to being called “fat cats” and other stigmas attached to the industry in the past. Already negativity is showing: “43% of enterprises say that they are not satisfied with their service providers’ readiness to start work.”

We all have a duty of care and a role to play to ensure that does not happen. This also needs to be achieved whilst also juggling the increasingly important sustainability agenda brought at last into sharp focus by COP26; the advent of new technologies and the ethical use of them, plus the rapidly-changing global sourcing ecosystem, among others.

Our 2022 manifesto sets out the opportunities and challenges ahead and the work the GSA is undertaking on behalf of the industry to guide it successfully through this period onwards to sustained industry growth.

We are stronger when we collaborate

The pandemic has brought a whole new positivity towards greater collaboration as we recognised that partnering and sharing at times of crisis really did keep the wheels of industry turning.

A collective approach means we do not reinvent wheels. It means we create a collective understanding and a more powerful voice. It accelerates new thinking and industry-wide adoption. It eradicates individual bias. The whole is, after all, greater than the sum of its parts. It also demonstrates social responsibility to the broader industry and to all the players within the ever-expanding sourcing ecosystem, as well as the individuals working within them. We are using this move to greater collaboration to help deliver our broad programme of work.

The work of the GSA across 2022 and beyond will be centred around four key areas:

- talent, wellness and the future of work;
- sustainability;
- best practice; and
- technology.

There is much work being done under each of these focus areas, creating a very strong platform for the industry to improve its reputation, attract and develop talent, present thought leadership, drive change, evidence best practice and continue to grow as a whole. These focus areas will all be supported by the ongoing programme of work from the GSA to include: the ability to assess sourcing lifecycle performance against the Global Strategic Sourcing Standard; assessing the team’s skill-sets against the GSA’s competences and capabilities framework; professional development with access to industry-recognised

qualifications and training; finding partners using the GSA Partner Platform; Member Insight Exchanges; GSA events; GSA pop-ups; best practice guides, newsletters; and industry matchmaking and industry campaigns to drive change.

It is no surprise that talent is going to be a major workstream for the GSA throughout 2022. Intrinsicly it is the role of a sourcing professional to source the talent or the capability to deliver services – be that using outsourcing, shared services or automation. The sourcing professional is then responsible for ensuring those services deliver on time and within budget, obviously with key responsibilities on both the buy- and supply-side.

We need to attract more talent into the supply-, buy- and advisory-sides and we need to upskill those roles to ensure our industry does not fall into disrepute. A critical campaign will be to promote the imperative of transparency at this time – both buyers and service providers need to be aligned and realistic about demand and supply alignment. Over-selling and under-delivering is a very real risk. The best practice within the GSA's Global Strategic Sourcing Standard is critical to support this.

Proposed Solutions to the Talent Crisis

We have detailed how talent is the number one issue for the industry and here are some of the ways we propose to address that:

- Attract more talent into the industry.
- Improve ways to retain existing talent.
- Create a better balance of global supply and demand.
- Work to global competency standards and upskill the strategic sourcing professional.
- Understand future skills requirements.
- Leverage the open talent economy.

Attract More Talent into the Industry

We need to stop sourcing and service delivery roles being the accidental profession. This can be achieved by ensuring students – across schools and universities – understand the great opportunities a career in the industry offers and the breadth of diversity across these roles. We aim to do this in a number of ways:

- Running an Ambassador's programme visiting schools and universities. We seek to enlist 30 Ambassadors to visit at least one educational establishment each.
- Promoting industry opportunities across student open talent platforms, giving them a taste of the profession through the delivery of projects whilst they study.
- Inviting students to participate in the GSA's Emerging Talent Forum.

Improving Ways to Retain Existing Talent

The key methods to retain existing talent is by looking after employees and responding to the changing ways of working, in addition to upskilling. The GSA offers a portfolio of professional development and will supplement this with feedback from its Emerging Talent Forum, sharing ideas to improve the industry as a place to work and case studies of what different organisations are doing to motivate their teams, whilst looking after wellness.

The GSA's Emerging Talent Forum is led by the industry's rising stars and is wholly inclusive for anyone working in the industry, providing a forum for peer-to-peer sharing and networking. Meetings happen virtually on a monthly basis and in person quarterly. A social media board is being set up for daily discussion. Headlines will be presented back to the GSA Council with suggestions for industry-led change.

Creating a Better Balance of Global Supply and Demand

Despite the talent crisis in much of the Western world, there is a surplus of supply in other geographies; for example, South Africa is suffering its highest adult unemployment at 35%. Egypt and Malaysia as well as Latin America also have available talent. Our first initiative is to develop a Global Heatmap, highlighting areas of supply and demand for different skills. Thereafter, we will work with the Global Technology & Business Services Council to develop more sophisticated platforms to communicate talent supply.

Work to global competency standards and upskill the strategic sourcing professional

A critical aspect of balancing global supply and demand is to recognise and appreciate the required skills on a global basis. To date, each region has been reinventing the wheel of the competences and capabilities required across many of the roles in our industry. Again, working with the Global Technology & Business Services Council, we plan to create one global framework, enabling organisations on both the buy- and supply-side to recognise and feel assured that the talent they are accessing is equal all around the world. This will be a major step forward in blending global supply and demand.

Understand Future Skills Requirements

The future of work is changing. We all know this, but we can better share how it is changing and what we as nations, industries and employers need to do to prepare for it. This is an absolutely essential programme of work to ensure huge swathes of populations and professionals are not left by the wayside as their professions and skillsets are automated out.

Take accountancy as an example. Many finance and accounts processes are predicted to be replaced by automation in the next few years. Accounts professionals are already being suggested to reskill as statisticians or data scientists – two roles in huge demand and low supply. We aim to build a case base and repository of conversion programmes for everyone to access – employers and employees alike – so they can be ahead of the game when it comes to the future of work. We call this “Responsible Automation”.

Leverage the Open Talent Economy

For the last 12 months we have been sharing our thoughts about how the open talent economy will be the biggest game-changer our industry has seen – probably since the advent of offshoring. Service providers need to embrace open talent to enable them to deliver the demand for service delivery. Those that are slow in doing so will undoubtedly find their enterprise customers will be doing so directly themselves and that they are losing market share to those platforms that are supplying open talent in a managed service offering.

Our view is that soon “open talent” will just become “talent”, as organisations around the world embrace the freelance way of working (more than half the working population is predicted to be freelance by 2027). We will continue to educate our community about the opportunities of open talent – as well as the challenges – and work globally with other bodies to develop the best practice to ensure open talent professionals are treated fairly and not exploited all around the world. Our Open Talent Forum meets on a quarterly basis, addressing the hottest issues.

Sustainability

ESG is hot on every board agenda and will only get hotter in the coming years. Our industry has historically focused attentively on the environmental part and is predominantly adept at the governance part, but needs to improve in the social value area.

Again – it is sharing that will improve the industry-wide performance in ESG. A potentially major initiative we are reviewing is the development of a Service Provider Sustainability Maturity Index. We already have broad support by buyers and services providers, but will research this further in Q3 2022. Currently, all companies are reinventing wheels. Buyers are writing their own due diligence questionnaires for all suppliers to fill in. Suppliers are having to fill in a multitude of different questionnaires for all their customers. We believe holding one verified industry common view is needed – but this view needs to represent the characteristics of the global technology and business services industry – we are a people industry and as such, in addition to key metrics such as carbon emissions, green data centres, etc. we should have a strong focus on softer metrics to include: inclusion and diversity in the workforce; supplier diversity; responsible automation; impact sourcing; fair price for livelihoods; and other social values. This index, if it comes to fruition, will not be a name-and-shame index; instead, it will be an index for best performers to promote themselves for poorer performers to learn from, so the industry as a whole can improve.

Regardless of the index progressing, we will be promoting huge amounts of best practice in this space to help this industry improve, including a repository for Tech4good examples to improve social value performance. We are also investigating the concept of setting targets for the industry as a whole to reach net zero ahead of the deadline.

With regard to impact sourcing, we will continue to work with the GT&BSC on globally measuring performance against improvement targets.

Technology

Our technology agenda is predominantly focused on technologies affecting our member community; however, an element is also focused on the GSA's own use of technology to improve member services.

Addressing the first point, our technology programme covers three areas.

Technology for sourcing professionals looks at the emerging technologies which are transforming the role of the sourcing professional; this includes the use of AI, ERP, automation, etc.

We are running a SourcingTech series of events covering what new technologies are coming down the line and how to source them from both an ethical procurement and contractual perspective.

Upcoming subjects for our webinars include:

- Technology debt.
- Enterprise cloud.
- Non-fungible tokens (NFTs).

Under this programme, we will lobby the Government on subjects including the major skills deficit and share best practice and thought leadership on subjects such as ethics, e.g., where do responsibilities lie?

Best Practice

The GSA is the only industry association focused on bringing the sourcing ecosystem of buyers, providers and advisors together,

driving best practice and sharing industry trends to help the industry do more work together and to partner better. We upskill the industry's talent to one industry developed view of best practice, offering a range of training and qualifications. We are totally independent and impartial. We care about the industry and work tirelessly to improve its reputation by creating and sharing understanding from all within. We campaign for change that benefits all our members, be that a small or diverse supplier, a start-up or a scale-up, or the sourcing team of a FTSE 100 enterprise. Our programme is broad, ensuring our best practice and thought leadership resonates far within organisations – across the business, finance, procurement, legal and technology sectors.

The work of our Entrepreneurs Club will continue to promote our Code of Conduct for working with small- and medium-sized enterprises (SMEs) and guiding enterprise buyers on how to change their due diligence processes to better align to smaller players, as well as providing forums and platforms for enterprises to find innovative, smaller companies to partner with.

We will promote examples of best practice where large organisations have reinvented themselves to make themselves attractive and better partners for the most innovative of companies – transforming both of their fortunes on the way through. Our GSA Partner Platform will be central to this – what better way to find a trusted potential partner than to select them based on selected criteria and *bona fide* customer reviews on the GSA Partner Platform?

It is difficult to articulate all the work in play by the GSA, but some additional headline areas include:

Automations marketplace

Automation works. We need to better embrace it. The best way to do so is by driving confidence that organisations are deploying it most effectively. Like much of our industry, there is too much reinvention. We aim to develop a repository that highlights all the processes that can be automated and how – linking many together to spread the thinking on enterprise-wide automation.

Public sector

We will plan a programme to better share our best practice across the public sector – sharing examples of best practice from across both the public and private sectors to further advance the industry as a whole.

The future of CX

We need to partner better to curb attrition – these are livelihoods at stake. CX Tech has an integral role to play.

Wellness in the workplace

People are our greatest asset. We need to look after them in every way possible. Examples include Think Great Places to Work and menopause cafes.

We are open to ideas and suggestions of additional initiatives we should run or participate in. Please do get in touch and be part of it!



Kerry Hallard is the driving force behind the GSA, whose mission is to grow the reach and positive reputation of the technology and business services sourcing industry globally through the development of best practice, standards, qualifications, thought leadership and learning from across the industry. Passionate about the importance of mutually beneficial business partnerships, Kerry is frequently called upon to speak on the challenges and opportunities for the global technology and business services industry and profession.

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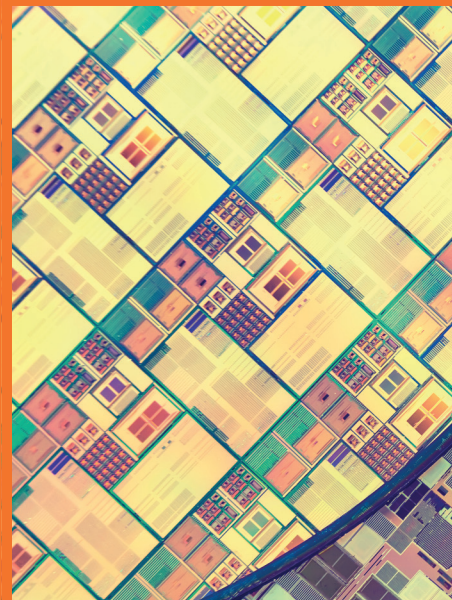
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Now in its 35th year, the Global Sourcing Association was established to help develop the best practice of how buy-side organisations source and then manage complex technology and business services arrangements. It started life as the National Outsourcing Association and underwent a rebrand in 2016, as its focus broadened to embrace all sourcing strategies, to include outsourcing, insourcing, shared services and automation on a global level. The GSA is the founding member of the Global Technology & Business Services Council, an alliance of a dozen of the leading industry associations from around the world focused on looking at the macro factors affecting the industry globally. The GSA is also a founding member of the Council for Supplier Diversity UK, the focus of which is to develop the best practice for building and managing a diverse supply chain. The GSA welcomes buyers, providers and advisors, as well as technology start-ups into its eco-system.

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