Sean N. Egan, Esq. (# 7191) Parkside Tower -- Suite 950 215 South State Street Salt Lake City, Utah 84111-2374 Telephone: (801) 363-5181 Facsimile: (801) 363-5184 Attorneys for Defendant Alste Technologies, GmbH

1IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

ACCESSDATA CORPORATION, a Utah corporation, Plaintiff,	DEFENDANT ALSTE TECHNOLOGIES' MOTION FOR SUMMARY JUDGMENT ON JURISDICTIONAL GROUNDS
Vs. ALSTE TECHNOLOGIES GmbH, a German limited liability company,	Case No. 2:08-CV-00569 Magistrate Judge Brooke C. Wells
Defendant.	(Oral Argument Requested)

Pursuant to Fed. R. Civ. P. 12(b)(1) and 56, defendant Alste Technologies GmbH ("ALSTE") respectfully serves its Motion for Summary Judgment on Jurisdictional Grounds. As grounds for this motion, ALSTE states as follows:

1. This action stems from an alleged breach of contract between plaintiff AccessData Corporation, a Utah corporation ("AccessData") and defendant Alste Technologies GmbH, a German limited liability company.

CENTRAL DIVISION

2. AccessData alleges that this Court has subject matter jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 because the parties have diverse citizenship and because the amount in controversy exceeds \$75,000.

3. However, documentation provided by AccessData indicates that the amount owed, if any, is less than \$75,000.

4. Accordingly, AccessData has failed to satisfy the criteria under 28 U.S.C. § 1332 and this action must be dismissed. Fed. R. Civ. P. 12(h)(3).

5. ALSTE expressly incorporates herein and serves herewith a Memorandum of Points and Authorities in support of this motion.

6. ALSTE respectfully requests oral argument on this motion.

WHEREFORE, for the reasons set forth herein as well as in the Memorandum in support of this motion, ALSTE respectfully requests that this Court dismiss AccessData's Complaint.

RESPECTFULLY SUBMITTED this 2nd day of December, 2008.

By <u>/s/ Sean N. Egan</u>

Sean N. Egan Attorneys for Defendant Alste Technologies GmbH

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of December, 2008, a true and correct copy of the foregoing **DEFENDANT ALSTE TECHNOLOGIES' MOTION FOR SUMMARY JUDGMENT ON JURISDICTIONAL GROUNDS** was served upon the persons named below, at the address set out below their name, either by mailing postage prepaid, by hand-delivery, by Federal Express, by telecopying to them or by the CM/ECF electronic filing system, a true and correct copy of said document.

Sterling A. Brennan, Esq. L. Rex Sears, Esq. WORKMAN NYDEGGER 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, Utah 84111] U.S. Mail] Federal Express] Hand-Delivery] Telefacsimile X] Other: CM/ECF

By <u>/s/ Sean N. Egan</u>

ľ