

# Asante technologies, inc. v. pmc-sierra essay sample

[Technology](#)



The lawsuit results from a dispute involving the sale of electronic parts. The plaintiff, Assante Technologies is a Delaware corporation with its primary place of business in Santa Clare, California. Assante entered into a contract with Unique Technologies, located in California; which is the distributor of PMC-Sierra, Inc. located in British Columbia, Canada. The plaintiff alleges that the Defendant did not meet the specific technical specifications of the order as stated in the contract. As a result, the Plaintiff sued for breach of contract under Article 2 of the Uniform Commercial Code ("UCC"). However, when the Defendant removed the case to the federal district court, arguing that the contract was governed by the CISG, rather than by the UCC; the Plaintiff requested a motion to remand. The court ruled in favour of the Defendant. The Plaintiff's motion to remand was denied. Four issues can be identified in this case: 1. Whether federal jurisdiction attached to claims governed by the CISG. -> Yes, CISG is ratified by the U. S. According to 28 U. S. C. at 1331(a) gives US district courts original jurisdiction over claims that arise under "treaties of the United States". Specifically, CISG is a U. S treaty and therefore, US district courts may hear complaints that arise under it. 2. Whether the parties are from two different CISG states.

-> Yes, defendant is in Canada because of Article 10 of the CISG: (a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, ...; 3. Whether the parties' choice of law clause excludes the CISG. -> No, there is an absence of clear language indicating that both contracting parties intended to opt-out. The law clauses of the Plaintiff were not clear. 4. Whether federal jurisdiction based upon the CISG does not violate the Well-

Pleaded Complaint Rule. -> No, both countries adopted the CISG. CISG pre-empts state law and the UCC, meaning as a treaty, CISG is a federal law.