

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

STATE OF NEW YORK, BY ATTORNEY  
GENERAL ERIC T. SCHNEIDERMAN,

Plaintiff,

v.

INTEL CORPORATION, a Delaware Corporation,

Defendant.

C. A. No. 09-827 (LPS)

**MOTION UNDER RULE 17(a), RULE 12(b)(1), RULE 12(b)(6), AND RULE 12(c)  
FOR DISMISSAL WITH RESPECT TO NEW YORK'S CLAIMS  
ON BEHALF OF NON-STATE PUBLIC ENTITIES**

Pursuant to Fed. R. Civ. P. 17(a), 12(b)(1), 12(b)(6) and Rule 12(c), Intel moves to dismiss New York's Donnelly Act claim on behalf of the Non-State Public Entities. Because New York has no authority to represent these Public Entities, it is not the real party in interest under Federal Rule of Civil Procedure 17 and lacks both constitutional and prudential standing. Because New York's error was wholly inexcusable, this dismissal should be immediate and with prejudice to New York refiling such a claim in the future.

The grounds for this motion are set forth further in Intel's Memorandum of Law filed herewith.

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Dated: May 27, 2011

1011684v.1/29282

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, W. Harding Drane, Jr. hereby certify that on May 27, 2011, the attached document was electronically mailed to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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