

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Settlement Agreement”) is entered into this 8th day of February, 2012, by and between the Attorney General of the State of New York (“NYAG”), on behalf of itself and the State of New York (“State”), and Intel Corporation (“Intel”). The NYAG and Intel are sometimes collectively referred to herein as the “Parties” or individually as a “Party.”

WHEREAS, in 2007, the NYAG commenced an investigation (“the Investigation”), pursuant to New York General Business Law § 340 *et seq.*, and New York Executive Law §§ 63(1) and 63(12) into the practices, procedures and conduct of Intel in the x86 microprocessor market;

WHEREAS, based on the Investigation, on November 3, 2009, the NYAG filed a Complaint in the District of Delaware, Case No. 1:09-cv-00827-LPS (the “Action”), alleging, *inter alia*, that beginning in approximately 1999, Intel willfully maintained its monopoly power through anticompetitive and unreasonably exclusionary conduct in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, the New York State Donnelly Act, General Business Law § 340 *et seq.*, and New York Executive Law § 63(12);

WHEREAS, on January 5, 2010, Intel filed an answer in the Action, denying the material allegations of the Complaint and asserting various additional defenses;

WHEREAS, on May 25, 2011, Intel filed three motions (“Three Motions”) – Intel Corporation’s Motion Under Rule 12(c) for Dismissal with Respect to New York’s Donnelly Act Damages Claim on Behalf of Consumers (D.I. 161), Intel Corporation’s 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 (D.I. 163),

and Intel Corporation's Motion for Partial Summary Judgment on Statute of Limitations Grounds (D.I. 166);

WHEREAS, on December 7, 2011, the Honorable Leonard P. Stark of the United States District Court for the District of Delaware granted Intel's Three Motions (D.I. 271, D.I. 273, D.I. 275);

WHEREAS, those Orders dismissed with prejudice NYAG's claims asserting (a) authority to represent non-State public entities under the Donnelly Act; and (b) parens patriae authority to recover on behalf of consumers under the Donnelly Act, and otherwise effectively eviscerated the State's damages claims; and

WHEREAS, to avoid further expense and investment of resources, the Parties wish to resolve the Action;

NOW THEREFORE, in consideration of the mutual covenants, promises and obligations set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

I. Dismissal of Action with Prejudice

Upon execution of this Settlement Agreement, the NYAG will execute a Stipulation of Dismissal with Prejudice in the form attached hereto as Exhibit 1. The Stipulation of Dismissal with Prejudice will be held in escrow by Keker & Van Nest and filed with the Court by Keker & Van Nest only after receipt by the NYAG of the Settlement Payment. Each Party will bear its own costs and attorneys' fees except as provided in Section II below.

II. Settlement Payment by Intel

A. Intel agrees to pay the sum of Six Million, Five Hundred Thousand Dollars (\$6,500,000.00) (“Settlement Payment”) to the NYAG by cashier’s check, in full and final satisfaction of this Settlement Agreement and the Released Claims, within fifteen (15) business days after the Parties’ execution of this Settlement Agreement.

B. The cashier’s check shall be made out to the “New York State Office of the Attorney General” and delivered to:

New York State Office of the Attorney General
Antitrust Bureau
120 Broadway, 26th Floor
New York, New York 10271
ATTN: Scott Hemphill, Bureau Chief

C. Upon receipt of the Settlement Payment by the NYAG, Intel will have no dominion, control or title to the Settlement Payment. The Settlement Payment will help defray a portion of the costs, fees, and expenses incurred by the NYAG and by certain non-State public entities in prosecuting the Action. Except as otherwise provided in Section VI of this Settlement Agreement, the use and distribution of the Settlement Payment is solely within the NYAG’s discretion and Intel shall have no right to challenge the NYAG’s allocation, distribution, or utilization of the Settlement Payment as determined by the NYAG.

D. The failure of Intel to make the Settlement Payment to the NYAG, or of the NYAG to provide Intel with a properly executed Stipulation of Dismissal with Prejudice in the form attached hereto as Exhibit 1, as provided in Section I, shall constitute a substantial and material breach of this Settlement Agreement, and shall

entitle the aggrieved Party to pursue immediate legal action, including for specific performance of this Settlement Agreement.

III. General Release

The NYAG on behalf of itself and the State fully and irrevocably releases Intel from all claims, known or unknown, including claims assigned to the State, up through the date of execution of the Settlement Agreement, that were or could have been asserted in the Action, including all claims arising out of, relating to, or concerning the facts, transactions, events, actions, or inactions that were alleged in the Action, and any claims assigned to the State. In addition, the NYAG on behalf of itself and the State fully and irrevocably releases Intel from all claims, known or unknown, arising out of, relating to, or concerning (a) the NYAG's investigation into the conduct described in the Federal Trade Commission's Administrative Complaint dated December 16, 2009, paragraphs 13-26 and 75-91; (b) the conduct described therein; and (c) any claims that were or could have been asserted therein. Together the claims described in this Section III are referred to as the "Released Claims." The NYAG warrants and represents that it has not assigned or transferred to any person or entity any right to recover for any claim that would otherwise be a Released Claim. The NYAG further warrants and represents that to its knowledge the State has not assigned or transferred to any person or any entity any right to recover for any claim that would otherwise be a Released Claim.

IV. Covenant Not to Sue

To the extent permitted by law, the NYAG, on behalf of itself and the State, agrees that neither will institute against Intel, or authorize, or solicit the commencement against Intel, of any action or other proceeding based in whole or in part upon any of the

Released Claims, including any action or other proceeding by the NYAG on behalf of the State, any State or non-State public entity, any State consumer, or any other person.

V. Termination of Investigations

Upon receipt of the Settlement Payment the NYAG shall terminate each and every existing investigation and/or proceeding of any kind relating to any Released Claims initiated by it on behalf of the State, any State or non-State public entity, any State consumer, or any other person and shall not initiate any new investigation and/or proceeding of any kind on behalf of the State, any State or non-State entity, any State consumer, or any other person, relating to any Released Claims.

VI. Non-State Public Entities

The NYAG agrees to use its best efforts to secure releases from all of the non-State public entities that were subject to discovery in the Action, including the City of New York. Those non-State public entities that receive any portion of the Settlement Payment shall sign a release and covenant not to sue substantially in the form attached hereto as Exhibit 2, and no non-State public entity shall receive any portion of the Settlement Payment without first executing the release and covenant not to sue.

VII. Return or Destruction of Discovery Materials

A. For Discovery Material obtained from Intel, within sixty (60) days after the receipt of the Settlement Payment by the NYAG from Intel, and for non-Party Discovery Material, within one hundred twenty (120) days after the receipt of the Settlement Payment by the NYAG from Intel, the NYAG will use its best efforts to either return or destroy all Discovery Materials, including all originals and copies of all documents, all notes, memoranda, or other papers containing Confidential Discovery

Material, and any and all Confidential Discovery Material disseminated pursuant to the terms of the Protective Order. In addition, upon the Parties' execution of this Settlement Agreement, the NYAG's right to access, use or control any Discovery Material or related data hosted on an Intel or third-party server (such as Electronic Evidence Discovery) shall terminate, and Intel shall have the sole right to access, use, or control such hosted Discovery Material and related data, subject to the provisions of the Protective Order.

B. Within sixty (60) days after the receipt of the Settlement Payment by the NYAG from Intel, Intel will use its best efforts to either return or destroy all Discovery Materials obtained from the NYAG and any State or non-State public entities, including all originals and copies of all documents, all notes, memoranda, or other papers containing Confidential Discovery Material, and any and all Confidential Discovery Material disseminated pursuant to the terms of the Protective Order.

C. For the purposes of this Section, the terms Discovery Material and Confidential Discovery Material shall have the definitions provided in the Protective Order entered on September 26, 2006, in Case 1:05-md-01717-JJF ("Protective Order").

D. Notwithstanding this Section, outside counsel for the Parties, including the NYAG, are entitled to retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work product prepared or received in connection with the Action, even if such materials contain Confidential Discovery Material. Any such archival copies that contain or constitute Confidential Discovery Material shall remain subject to the Protective Order.

VIII. Additional Terms

A. Intel enters into this Settlement Agreement voluntarily and represents that no representation, inducement, promise, offer, understanding, condition, or warranty of any kind not set forth in this Settlement Agreement has been made by the NYAG or any member, officer, employee, agent or representative of the NYAG to induce Intel to enter into this Settlement Agreement. The NYAG enters into this Settlement Agreement voluntarily and represents that no representation, inducement, promise, offer, understanding, condition, or warranty of any kind not set forth in this Settlement Agreement has been made by Intel or any member, officer, employee, agent or representative of Intel to induce the NYAG to enter into this Settlement Agreement.

B. This Settlement Agreement is for settlement purposes only, and neither this Settlement Agreement, nor any of its provisions, including any drafts, or any communications made during the negotiation or drafting of this settlement or Settlement Agreement, shall be filed, offered, received in evidence or otherwise used in any action or proceeding, except by a Party in connection with an action or proceeding arising out of or relating to this Settlement Agreement. This Settlement Agreement does not constitute an admission by Intel that the law has been violated or that the facts alleged in the Complaint are true.

C. This Settlement Agreement shall not be deemed approval by the NYAG of any of the practices or procedures referenced in the Action. Nothing contained herein shall be construed as relieving Intel of its obligation to comply with all applicable state and federal laws, regulations or rules, nor shall any of the provisions of this Agreement

be deemed permission by the NYAG to engage in any act or practice prohibited by such law, regulation or rule.

D. Except to the extent provided in Section VI, this Settlement Agreement shall not prejudice, waive or affect any claims, rights or remedies of any person not represented by the NYAG in this action.

E. Intel represents and warrants, through the signatures below, that the terms and conditions of this Settlement Agreement are duly approved, and execution of the Settlement Agreement is duly authorized. The NYAG represents and warrants, through the signatures below, that the terms and conditions of this Settlement Agreement are duly approved, and execution of the Settlement Agreement is duly authorized, and that the NYAG, on behalf of itself and the State, has the legal authority to enter into and be bound by this Settlement Agreement.

F. This Settlement Agreement shall be binding on and inure to the benefit of the Parties and their respective successors, and the Parties disclaim any intention to create rights under this Settlement Agreement which may be enforced by any other person or entity under any circumstances.

G. This Settlement Agreement constitutes the entire agreement between the Parties and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Settlement Agreement.

H. The Settlement Payment made by Intel pursuant to this Settlement Agreement is not, and shall not be considered as or treated as, the payment of a penalty, fine, treble damages, punitive recoveries, or forfeitures under any state or federal laws,

rules or regulations, or any other applicable statute or provision, nor has the NYAG or the State sought the imposition of any of the foregoing as part of this Settlement Agreement.

I. This Settlement Agreement may not be amended except by an instrument in writing signed on behalf of all the Parties to this Settlement Agreement.

J. Any notices or other writings required or permitted under this Settlement Agreement shall be sent to one or more designated representatives for the other Party.

Intel's designated representative is as follows:

General Counsel
Intel Corporation
2200 Mission College Blvd.
Santa Clara, California 95054

The NYAG's designated representatives are as follows:

Email to:
Richard L. Schwartz
New York State Attorney General's Office
Email: Richard.Schwartz@ag.ny.gov

U.S. Mail to:
Bureau Chief, Antitrust Bureau
New York State Attorney General's Office
120 Broadway
New York, NY 10271

K. This Settlement Agreement is the product of informed negotiations and involved compromises of the Parties' positions. It has been jointly prepared by the NYAG and Intel, and the terms hereof shall not be construed in favor of or against any Party on account of its participation in such preparation. As such, no Party may claim that any ambiguity in this Settlement Agreement shall be construed against any other Party on account of its participation in the preparation of this Settlement Agreement.

L. Except as provided in Section II paragraph D, in the event that one or more provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Settlement Agreement.

M. All captions and headings herein are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Settlement Agreement.

N. This Settlement Agreement shall be effective and binding only when signed by all Parties or their duly authorized representatives or counsel. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

IN WITNESS WHEREOF, the Parties through their duly authorized representatives or counsel have executed and agreed to be bound by this Settlement Agreement as of the date set forth at their respective signatures.

ERIC T. SCHNEIDERMAN

Attorney General of the State of New York

By: Karla G. Sanchez

Karla G. Sanchez

Executive Deputy Attorney General
for Economic Justice

New York State Attorney General's Office
120 Broadway, 25th Floor
New York, New York 10271-0332

Dated: February 8, 2012

INTEL CORPORATION

By: 

A. Douglas Melamed
Senior Vice President and General Counsel
Intel Corporation
2200 Mission College Blvd.
Santa Clara, California 95054

Dated: February 8, 2012

EXHIBIT 1

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

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STATE OF NEW YORK, BY ATTORNEY	:	
GENERAL ERIC T. SCHNEIDERMAN,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 09-827 (LPS)
	:	
	:	
INTEL CORPORATION, a Delaware	:	
corporation,	:	
	:	
Defendant.	:	
-----	X	

STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE

Plaintiff State of New York ("NYAG") and Defendant Intel Corporation ("Intel"), through their respective counsel pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), stipulate and agree as follows:

1. This action, and all the claims asserted herein, are dismissed in their entirety, **WITH PREJUDICE**; and

2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this action except as provided in the parties' Settlement Agreement.


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ERIC T. SCHNEIDERMAN
Attorney General of the State of New York

By: 
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for Economic Justice

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Attorneys for Intel Corporation

Dated: February _____, 2012

SO ORDERED this ____ day of _____, 2012.

Hon. Leonard P. Stark
United States District Court Judge

EXHIBIT 2

EXHIBIT 2

RELEASE AND COVENANT NOT TO SUE BY NON-STATE PUBLIC ENTITIES

This Release and Covenant Not to Sue is executed this ____ day of _____, 2012, by the Releasor (as defined below) in favor of the Releasee (as defined below).

DEFINITIONS

- A. "Releasor" shall mean _____ and any of its divisions, affiliates, subsidiaries, groups, associates, general or limited partners or partnerships, predecessors, successors or assigns.
- B. "Releasee" refers to Intel Corporation and all of its successors, predecessors, assigns, subsidiaries, divisions, groups, affiliates and partnerships, including without limitation, any of their respective past or current officers, directors, and employees (collectively, "Intel").

RELEASE

WHEREAS, in 2007, the New York State Attorney General's Office ("NYAG") commenced an investigation ("the Investigation"), pursuant to New York General Business Law § 340 *et seq.*, and New York Executive Law §§ 63(1) and 63(12) into the practices, procedures and conduct of Intel Corporation in the x86 microprocessor market;

WHEREAS, based on the Investigation, on November 3, 2009, the NYAG filed a Complaint in the District of Delaware, Case No. 1:09-cv-00827-LPS (the "Action"), alleging, *inter alia*, that beginning in approximately 1999 Intel willfully maintained its monopoly power through anticompetitive and unreasonably exclusionary conduct in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, the New York State Donnelly Act, General Business Law § 340 *et seq.*, and New York Executive Law § 63(12);

WHEREAS, on January 5, 2010, Intel filed an answer in the Action, denying the material allegations of the Complaint and asserting various additional defenses;

WHEREAS, on May 25, 2011, Intel filed three motions ("Three Motions") – Intel Corporation's Motion Under Rule 12(c) for Dismissal with Respect to New York's Donnelly Act Damages Claim on Behalf of Consumers (D.I. 161), Intel Corporation's 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 (D.I. 163), and Intel Corporation's Motion for Partial Summary Judgment on Statute of Limitations Grounds (D.I. 166);

WHEREAS, on December 7, 2011, the Honorable Leonard P. Stark of the United States District Court for the District of Delaware granted Intel's Three Motions (D.I. 271, D.I. 273, D.I. 275);

WHEREAS, those Orders dismissed with prejudice NYAG's claims asserting (a) authority to represent non-state public entities under the Donnelly Act; and (b) *parens patriae* authority to recover on behalf of consumers under the Donnelly Act, and otherwise effectively eviscerated the State's damages claims; and

WHEREAS, to avoid further expense and investment of resources by themselves and by the Releasor, the Parties have agreed to settle the Action through a Settlement Agreement, entered into on February 8, 2012;

NOW THEREFORE, in consideration of the mutual covenants, promises and obligations set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Releasor agree as follows:

1. **General Release.** Releasor hereby fully and irrevocably releases Releasee from all claims, known or unknown, including claims assigned to the Releasor, up through the date of execution of the Settlement Agreement, that were or could have been asserted in the Action, including all claims arising out of, relating to, or concerning the facts, transactions, events, actions, or inactions that were alleged in the Action. In addition, the Releasor fully and irrevocably releases Releasee from all claims, known or unknown, arising out of, relating to, or concerning (a) the NYAG's investigation into the conduct described in the Federal Trade Commission's Administrative Complaint dated December 16, 2009, paragraphs 13-26 and 75-91; (b) the conduct described therein; and (c) any claims that were or could have been asserted therein. Together the claims described in this paragraph 1 are referred to as the "Released Claims." The Releasor warrants and represents that it has not assigned or transferred to any person or entity any right to recover for any claim that would otherwise be a Released Claim.
2. **Covenant Not to Sue.** Releasor agrees that it will not institute against Intel, or authorize, or solicit the commencement against Intel, of any action or other proceeding based in whole or in part upon any of the Released Claims.
3. The Releasor represents and warrants, through the signatures below, that the terms and conditions of this Release and Covenant not to Sue are duly approved, that the execution of this Release and Covenant not to Sue is duly authorized, and that the Releasor has the legal authority to enter into and be bound by this Release and Covenant not to Sue.
4. Releasor enters into this Release and Covenant Not to Sue voluntarily and represents that no representation, inducement, promise, offer, understanding, condition, or warranty of any kind not set forth in this Release and Covenant Not to Sue has been made by Intel or the NYAG or any member, officer, employee, agent or representative of Intel or the NYAG to induce Releasor to enter into this Release and Covenant Not to Sue.

[Signature]

Name
Title
Entity Name
Entity Address

Dated: _____, 2012