HERSHEY CO
Form 10-K/A
March 19, 2012
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K/A

(Amendment No. 1)

x **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
For the fiscal year ended December 31, 2011

OR

¨ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
For the transition period from to

Commission File Number 1-183

THE HERSHEY COMPANY

(Exact name of registrant as specified in its charter)

Delaware	23-0691590
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
100 Crystal A Drive, Hershey, PA	17033
(Address of principal executive offices)	(Zip Code)

Registrant s telephone number, including area code: (717) 534-4200

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock, one dollar par value	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act:

Title of class

Class B Common Stock, one dollar par value

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes x No ¨

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No x

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer x	Accelerated filer ¨
Non-accelerated filer ¨ (Do not check if a smaller reporting company)	Smaller reporting company ¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant s most recently completed second fiscal quarter.

Common Stock, one dollar par value $8,821,386,884 as of July 1, 2011.

Class B Common Stock, one dollar par value $1,174,322 as of July 1, 2011. While the Class B Common Stock is not listed for public trading on any exchange or market system, shares of that class are convertible into shares of Common Stock at any time on a share-for-share basis. The market value indicated is calculated based on the closing price of the Common Stock on the New York Stock Exchange on July 1, 2011.

Indicate the number of shares outstanding of each of the registrant s classes of common stock as of the latest practicable date.

Common Stock, one dollar par value 164,888,660 shares, as of February 8, 2012.

Class B Common Stock, one dollar par value 60,631,517 shares, as of February 8, 2012.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Company s Proxy Statement for the Company s 2012 Annual Meeting of Stockholders are incorporated by reference into Part III of this report.

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EXPLANATORY NOTE

The Hershey Company (the Company) is filing this Amendment No. 1 to its Annual Report on Form 10-K for the year ended December 31, 2011 (the 2011 Annual Report) to include information about the Company s Common Stock that may be issued under equity compensation plans as of December 31, 2011. This amendment to the 2011 Annual Report contains only Item 12 and the Company is not amending or supplementing any other information in its previously filed 2011 Annual Report.

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PART III

Item 12. ***SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS***

(a) Information concerning ownership of our voting securities by certain beneficial owners, individual nominees for director, the named executive officers, including persons serving as our Chief Executive Officer and Chief Financial Officer, and directors and executive officers as a group, is set forth in the section entitled Ownership of the Company s Securities in the Proxy Statement, which information is incorporated herein by reference.

(b) The following table provides information about all of the Company s equity compensation plans as of December 31, 2011:

Equity Compensation Plan Information

Plan Category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders[1]			
Stock Options	14,054,342	$ 44.81	
Performance Stock Units and Restricted Stock Units	1,740,479	N/A	
Subtotal	15,794,821		20,448,418
Equity compensation plans not approved by security holders[2]			
Stock Options	486,100	$ 46.44	
Total	16,280,921	$ 44.86[3]	20,448,418

(1) Column (a) includes stock options, performance stock units and restricted stock units granted under the stockholder-approved EICP. Of the securities available for future issuances under the EICP in column (c), 13,237,000 are available for awards of stock options and 7,211,418 are available for full-value awards such as performance stock units, performance stock, restricted stock units, restricted stock and other stock-based awards. Securities available for future issuance of full-value awards may also be used for stock option awards. As of December 31, 2011, 71,676 performance stock units were excluded from the number of securities remaining available for issuance in column (c) because the measurement date had not yet occurred for accounting purposes. For more information, see *Note 17, Stock Compensation Plans,* of the Notes to Consolidated Financial Statements.

(2) Column (a) includes 486,100 stock options outstanding that were granted under the Broad Based Stock Option Plan. In July 2004, we announced a worldwide stock option grant under the Broad Based Stock Option Plan, which provided over 13,000 eligible employees with a grant of 100 non-qualified stock options each. The stock options were granted at a price of $46.44 per share which equates to 100% of the fair market value of our Common Stock on the date of grant (determined as the closing price on the New York Stock Exchange on the trading day immediately preceding the date the stock options were granted) and vested on July 19, 2009. No additional awards may be made under the Broad Based Stock Option Plan or Directors Compensation Plan.

(3) Weighted-average exercise price of outstanding stock options only.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, this 19th day of March, 2012.

THE HERSHEY COMPANY

(Registrant)

By: /s/ HUMBERTO P. ALFONSO
Humberto P. Alfonso

Chief Financial Officer

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EXHIBIT INDEX

Exhibit 31.1	Certification of John P. Bilbrey, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
Exhibit 31.2	Certification of Humberto P. Alfonso, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002