

**COURT OF APPEAL FOR ONTARIO**

THE HONOURABLE JUSTICE MOLDAVER )  
THE HONOURABLE JUSTICE FELDMAN )  
THE HONOURABLE JUSTICE SIMMONS )

TUESDAY, THE 7TH  
DAY OF DECEMBER, 2010

BETWEEN:

**DAVID OSMUN and METRO (WINDSOR) ENTERPRISES INC.**  
Plaintiffs  
(Respondents in Appeal)

- and -

**CADBURY ADAMS CANADA INC.,  
THE HERSHEY COMPANY, HERSHEY CANADA, INC.,  
NESTLÉ CANADA INC., MARS, INCORPORATED,  
MARS CANADA INC and ITWAL LIMITED**  
Defendants  
(Appellants in Appeal)

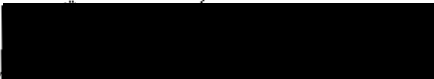
**ORDER**

THIS APPEAL, by the Defendants/Appellants, The Hershey Company, Hershey Canada, Inc, Nestlé Canada Inc., Mars, Incorporated and Mars Canada Inc. from the Judgment of The Honourable Justice Strathy of the Ontario Court of Justice, dated May 5, 2010, was heard on December 7, 2010 at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Appeal Book and Compendium, Exhibit Books, Factum and Brief of Authorities of the Appellants and the Facta and Brief of Authorities of the Respondents, and on hearing the submissions of counsel for the parties,

1. THIS COURT ORDERS that the appeal is hereby dismissed.
2. THIS COURT ORDERS that the costs of this appeal are awarded to the Plaintiffs (Respondents in Appeal), fixed at \$15,000, inclusive of applicable taxes and disbursements.
3. THIS COURT ORDERS that the costs of this appeal are awarded to the Defendant (Respondent in Appeal), Cadbury Adams Canada Inc., fixed at \$4,000, inclusive of applicable taxes and disbursements.
4. THIS COURT ORDERS that the costs of this appeal are awarded to the Defendant (Respondent in Appeal), Itwal Limited, fixed at \$1,000, inclusive of applicable taxes and disbursements.

THIS ORDER BEARS INTEREST at the rate of 2 percent per year commencing on December 7, 2010.

  
Deputy Registrar  
Sandra Sheroude

ENTERED AT / INSCRIPT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

MAR 03 2011

PER / PAR: ST

David Osmun and Metro (Windsor)  
Enterprises Inc.  
Plaintiffs (Respondents)

and

The Hershey Company, et al  
Defendants (Appellants)

Court of Appeal No: C52131  
Superior Court File No. 08-CV-347263PD2

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**COURT OF APPEAL FOR ONTARIO**

Proceeding commenced at Toronto

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**ORDER**

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