



Ask The Rabbi...

Researched at Ohr Somayach Institutions / Tanenbaum College
22 Shimon Hatzadik Street, POB 18103, 91180 Jerusalem, Israel
tel:972-2-810315 • fax:972-2-812890 • Internet:ohr@jer1.co.il



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This edition contains: 1. Copy. Right?

A number of readers submitted the following question in different forms:

Is copying software permitted according to Jewish Law?

Dear Readers,

With the proliferation of expensive computer "packages" and the ease of the "drag and drop" copying technique, the temptations of unauthorized copying are certainly great. Your question is often asked and quite timely.

When you buy a program, the seller can stipulate any condition he wants. For example, he can say "I'm selling this diskette on the condition that you don't copy it." If after agreeing to this, you then break the condition and copy it, you have nullified the sale retroactively. It comes out that you have been using a stolen diskette. Similarly, when the seller **leases** the disk, use is limited to the stipulations of the seller, who in fact owns the disk.

Another consideration is the knowledge itself. Whether or not the Torah recognizes ownership of something intangible such as knowledge is a matter of dispute amongst the *Poskim*. Since stealing is a Torah prohibition, one should follow the strict opinion.

Furthermore, copying disks damages the seller by cutting profits and infringing on his rightful share of the market.

Another consideration is that of *Dina D'Malchuta* — the law of the land. The prevailing civil law — provided it doesn't run counter to Torah law — is binding. And even without an official law, there's a requirement to abide by the accepted business practice — which is to respect the entrepreneurial rights of others. This requirement has the force of a *T'nai Beit Din* or Rabbinical court ruling.

A fascinating consideration suggested by some *Poskim* is the concern for the **promotion of public welfare**: Since illegal copying cuts the profit margin of the innovator, this may reduce his incentive to invest in **further** development of this or other products. Such programs may be useful in promoting public welfare — for example, in the fields of medicine or defense. Interfering with their development would constitute a violation of the "public good."

So to answer your question, unauthorized copying of computer "packages" is **prohibited**, for one or all of the following reasons:

- *Gezel* — stealing
- *Hasagat G'vul* — reducing the developer's rightful share of the market.
- *Mazik* — inflicting monetary damage
- *Ma'avir al Da'at* — violating the developer's stipulations
- *Dina D'malchuta* — violating civil law
- *Minhag* — accepted practice

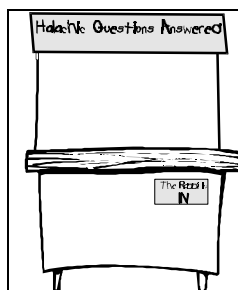
The only time copying might be OK is when it can be assumed that the innovator has absolutely no qualms about someone copying his product. I discussed this point with Rabbi Yosef Shalom Elyashiv, *shlita*, who limited this to very specific cases where such an assumption is self-evident. Actual cases should be discussed with a *Halachic* authority familiar with the particulars of the situation.

The temptation to use unauthorized copies of programs may be one of the "tests" of the computer era. It might be helpful to post a copy of this issue of "Ask the Rabbi" near the computer as a friendly reminder.

Speaking of plagiarism I'm reminded of the following **true** story: A fourth grade teacher noticed little Robby copying from Kevin's paper during a math test. Breaking the silence she said, "Robby, I don't want to know what's written on Kevin's test." Thinking about that for a moment, Kevin chimed in and said, "So Teacher, why do I have to take the test."

Sources:

- *Birkat Shlomo*, by Rabbi Shlomo Tenen, *Choshen Mishpat* 24.
- *Mishnat Zchuyot Ha'yotzrim* by Rabbi Nachum Menashe Weisfish.



The Rabbi is Back!

Please feel free to submit questions to *Ask The Rabbi* again. Submissions can be made via E-Mail, fax or regular mail. Our addresses are listed at the top of the page.

If you have **E-Mail** and a question, you can submit it to *Ask The Rabbi* for possible inclusion in a future edition. Just write your question using your E-Mail program, set the subject to "Ask The Rabbi" and send it to ohr@jer1.co.il. We can't include all questions submitted, but we do try to respond to everyone.

Ask The Rabbi is written by **Rabbi Moshe Lazerus, Rabbi Benzion Bamberger, Rabbi Reuven Subar, Rabbi Avrohom Lefkowitz** and other Rabbis at Ohr Somayach Institutions / Tanenbaum College, Jerusalem, Israel.

General Editor: **Rabbi Moshe Newman**

Production Design: **Lev Seltzer**

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