

The poskim actually discuss almost all of these issues, with respect to various *halachic* applications. Apart from the issues with electronics in general, the poskim discuss whether recording sound in a physical format constitutes writing on *Shabbos*. Most maintain that this cannot be considered writing. The main reason for this is that it cannot be read in its present form. Sources for this debate include Talmudic discussion about invisible ink, that can be read by holding it to a candle, or by adding chemicals. The Talmud refers to an abbreviation being considered holy, or in the case of *Shabbos*, a word.

The poskim debate a tiny photograph of sacred writings that can only be read with a magnifying glass. The writing exists, but there is an additional issue of whether something that requires magnifying is considered visible. A second discussion centers on whether one may fulfill *mitzvos* requiring hearing a voice by listening to them on a radio, telephone, or a recording. The main reason to disqualify it is that the sound is not actual voice, but rather is an electronic reproduction of the original. There is also some discussion on whether there is any inherent holiness in a recording of the Name of Hashem. This applies to erasing it or recording over it, and to its disposal. The poskim also debate whether the temporary images on a screen may be considered holy, at least temporarily. May one erase a holy Name or *passuk* excerpt while typing? May these unusual forms of holy items may be taken into a rest-room? Are there differences between an item that has an impression in the form of real lettering and something retrievable electronically.

While the poskim debate these matters extensively, in our cases, the main issue can be summarized simply. Whether or not the lettering is real, or one is considered actually writing, the items in use are aiding in the Torah study. Therefore, the main issue is whether we follow the view that permits minor relative disrespect to a *sefer* in the course of Torah study. It seems that the stringent view regarding using *sefarim* to support others permits it when all of them are in use. Some add that a determining factor is how it is viewed by ordinary people. If it is not done because it is viewed as disrespectful, one may not do it. Using an iPod type item would appear to be permissible while it is used to retrieve the holy texts. Once any such item is shut off or is no longer being used for holy texts, it is forbidden. It is most like a pen or blank paper. That has many permissible uses in accordance with the opinions cited. Nevertheless, while it is not functioning as an aid to the study, it may not be placed on or in a *sefer*. [See e.g. Igros Moshe YD I:173 II:142 Tzitz Eliezer III:1 IV:12 XVI:31 Yabia Omer IVYD:20-21 Amud Hayemini 42 Avnei Yashpeh YD:103 Tzedaka Umishpat 16:16 27 33 34, notes.]

**On the parsha ...** Come near, let me feel you .. The voice is the voice of Yaakov, but the hands are the hands of Eisav .. He did not recognize him .. [27:21-23] Yitzchok thought "It is uncharacteristic of Eisav to use the Name of Hashem .. [Rashi] Why did Yitzchok decide that it must be Eisav, based on the hands? Why did he not think it could be Yaakov in disguise? After all, this is what he suspected! Because saying Hashem's Name is a temporary thing. The hands were a permanent feature of Eisav. Eisav might temporarily show a sign of holiness.

Sponsored by Joshua Sandler in memory of George Sandler, Gershon ben Avraham z"l, whose *yahrzeit* was on the 23<sup>rd</sup> of Cheshvan. א

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# HALOCHOSCOPE

**This week's question:**

**May one place a small recording device on top of a *sefer* in use, while recording a *shiur*? If the device has recordings of *shiurim* on it, may it be placed on *sefarim*? May one place a disk with Torah *shiurim* in audio, video or text format on top of a *sefer*? What would the ruling be in the case of an iPod type device, with the text of a *sefer* showing while the study takes place? The device would also have many mundane uses as well. In addition, it is possible that the sacred text is not recorded in the device, but is being retrieved from a server over the internet. What about a radio receiver, a telephone, or a speaker?**

**The issues:**

- A) Respect for *sefarim*; hierarchy of holiness
- B) Relative respect or disrespect
- C) Status of digital recording and its sanctity, relative to written words

**A) Respect for *sefarim*; hierarchy of their holiness**

Items used for holy uses attain a level of holiness themselves. Some items are infused with this holiness before they are used. They may be designated or made specifically for this use. Others are considered holy at the time of use, while others are holy when idle as long as they are being reserved for their holy use. Some items are holy forever.

The holiness of items means that they must be treated accordingly. In some cases, this is out of respect for the *mitzvah* for which they are used. In some cases, the items themselves are designated solely for the *mitzvah*, known as *muktzeh lemitzvasa*, precluding any other uses. Some items are inherently sacred. Using them for anything less than their designated use is a desecration of their sanctity. In addition to not using them for other uses, many items must be treated carefully while they are not being used. Mundane activities and behavior might be forbidden in their presence. They might require special reserved space. One might not be permitted to store less holy items there. Some types of sanctity can be transferred to money or items exchanged for the holy items. In some cases, the item remains holy, and the money also gains a degree of holiness. It may not be used for mundane purposes. In some cases, this is connected to the concept of communal consecration of funds for holy uses. When sanctity is transferred, and the money or item is exchanged again, the new item acquires the sanctity. The money then reverts to non-sacred status. Transfers may only be made to a higher level of sanctity.

A typical example of a holy item through use would be a garment with *tzitzis*. The garment with the *tzitzis* is less holy than the fringes. It is a plain four cornered garment. If it was always made to be worn as a *talit katan*, it should be treated somewhat better. A *talit gadol* used specifically for *davening*, has additional sanctity. While one may enter an unclean place, such as a rest-room, wearing his *talit katan*, he must remove his *talit gadol*. *Tefilin* are more holy. The *batim*, boxes, and the *retzuos*, straps, are holy in their

own right. In addition, they have certain letters of holy Names on them. The *parshiyos*, parchment scrolls inside, are holier than that. *Tzitzis* are attached *lishmah*, with intent to make them usable for the *mitzvah*. They should also be spun *lishmah*. The *talis* is not made *lishmah*. *Tefilin* require *lishmah* at every step of the process. There is even a type of sanctity applied to the materials used for these things, based on *hazmanah*, setting them aside specially for these uses. Usually, one may stipulate beforehand that the sanctity being attributed to the item should be conditional or provisional. Depending on the stipulation, the item could later be used for personal or mundane purposes, on the basis that its sanctity never took hold, or, if it did, it was only for a certain time period.

There are three basic levels of items that require respect. *Kedusha atzmah* includes items that are invested with sanctity in their own right, whether or not they are actually used. Such items include *sifrei torah*, *tefilin* and *mezuzos*. *Tashmishei kedusha* are items that service *kedusha* atzimah, such as the cloth wrappings. *Tashmishei mitzvah* are items used in the performance of a *mitzvah*, with or without *hazmanah* or *lishmah*. Modern day *shuls* have sanctity, but the exact level is debated. Printed *sefarim* can have sanctity on varying levels, as shall be explained.

The main source for respect for *sefarim* nowadays is the respect for *sifrei torah* and other hand-written *sifrei kodesh*. The sources for such special treatment include Scriptural *mitzvos*. One must show awe for the sanctuary. This positive *mitzvah* is understood to require special treatment for anything considered holy. There is a negative *mitzvah* forbidding destruction in any form of something associated with Hashem. The context of this *mitzvah* is the commandment to destroy all forms of idol and the trappings thereof. The Torah says one may not do so to Hashem. Specifically, this is the *mitzvah* forbidding erasing the Name of Hashem written in holiness. These two *mitzvos* are the main *mitzvos* associated with respect. There is also a concept of *me'ilah behekdesh*, misappropriation of holy items. However, this is a more general prohibition against benefiting from or personal use of the items placed in the “jurisdiction of Hashem”. Rabbinically, all of these *mitzvos* are expanded to include many more cases.

The prohibitions against erasing also apply to disposal of holy items that do not include the actual Name of Hashem, to a slightly lesser degree. Likewise, the requirements to respect such items also applies. Items might be permitted to be disposed of, depending on their level, but are disposed of with respect. While erasing directly would always be an issue, indirectly disposing of something might be permitted. However, most truly holy items never lose their sanctity fully, and may not be disposed of ever. Rather, they are placed in *genizah*, permanent storage or burial.

Some poskim explain, *kedusha* of a text depends on four factors: materials, lettering, intent and content. The Torah requires specific materials to be used for a *sefer torah*, with additional requirements on the sources of such. This would not apply to a *sefer* printed on regular paper. *Kesav ashuris*, the lettering of a *sefer torah*, has inherent sanctity that is imparted to the item written. Printed *sefarim* can have this factor. A *sefer torah* must be written with *kavanah lishmah*, specific intent to infuse it with its holiness. A printer usually has no such intent, unless it is a G-d-fearing Jew who presses the button of the press. Modern photo-printing methods are further removed from *kavanah*. Content is the single factor that applies to every *sefer*, even when written in lettering of a totally different lan-

guage. Many poskim maintain that until a *sefer* or other publication is used to learn from, it does not attain this type of sanctity. The poskim also discuss which category of *kedusha* applies to printed *sefarim*. While the *Shaimos* written inside must be treated with utmost respect, the book itself might not necessarily fit into the category of *kedusha atzmah*. It can depend on whether excerpts of *pesukim* are written in them. Some consider them *tashmishei kedusha*, while others consider them like *tashmishei mitzvah*. In any event, while they are being used for the *mitzvah* of Torah study, they are considered holy. After they wear out, the poskim debate how to dispose of them. The consensus is that a *sefer* in Hebrew should be put in *genizah*. Other items, including English books or periodicals, some with excerpts in Hebrew are debated. The poskim also debate the erasing of a hand-written *dvar Torah*, when there is no Name of Hashem or *passuk* excerpt in it. However, many consider a translation of the Name, or even a substitution for the Name included in the prohibition to erase.

Within *sefarim*, there is a hierarchy. *Sifrei torah* are holiest. Separate written *chumashim* are holier than the other books of *Tanach*. Some poskim equate printed volumes of Talmud to printed *sifrei Tanach*. Most seem to consider any *sefer* of *divrei Torah* equal to a printed volume of *Torah Sheb'al Peh*, such as commentaries, *halacha* guides, ethical guides or responsa. [See Shabbos 115-116 120 Eruvin 98a Megillah 26b Rosh Hashanah 18b Gitin 45b 54b Makos 22a Shavuos 35a-36a Menachos 30b 32b Sofrim 3:11-13, Poskim. Tur Sh Ar OC 154 YD 179:8 276 282 284:2, commentaries. Chavos Yair 116. Minch. Chinuch 437. Chaz. Ish YD 164:2-3. Ig. Moshe YD II:134-136. Shvus Yaakov III:10. Tzedaka Umishpat 16, esp. notes. Halochosepe II:4 III:1.]

### **B) Relative disrespect**

Specific examples of relative disrespect are discussed. The Talmud discusses placing *sefarim* of lower holiness on top of higher ones. Interchanging their coverings is discussed. Binding them together is also raised. The poskim discuss placing holy items between the pages of a *sefer*. Keeping place in one *sefer* with another *sefer* between the pages is considered disrespectful. The poskim debate propping a *sefer* being studied from with a *sefer* not being used at the time. The lenient view maintains that anything done to make the current studying possible or easier is always permissible. One may not leave an open *sefer* unattended. The poskim debate leaving a different closed *sefer* on the open pages as a cover. One may not score lines on a blank piece of paper on top of a *sefer*, even when one plans to use the paper to write *divrei Torah*. However, the poskim permit writing *divrei Torah* on a paper on a *sefer*. This seems to apply to an open *sefer* as well, provided that the writing is done during the learning, to make it easier. [See Megillah 27a Baba Basra 13b, Poskim. Sefer Chasidim 101 898 907. Tur Sh Ar OC 154:6-9 MA 14 315:7 YD 282:7-19 TZ 13 283:1, commentaries. Tz. Um. 16:27, notes.]

### **C) Digital recordings and written words**

Items with *kedusha* need not be written. All artifacts in the *Bais Hamikdash*, and nowadays, in the *shul*, have some *kedusha*. Even foodstuffs, such as tithes, and certainly *korbanos*, are holy. Our question is whether to treat recorded *shiurim* as though they are written. Taken further, our question relates to an item used to transmit or receive holy words, during use or not, as having some level of *kedusha*. If any *kedusha* can be attributed to it, how does one deal with it, relative to a real *sefer*?