

THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha

VOLUME 5779 • ISSUE III • PARSHAS LECH LECHA • A PUBLICATION OF THE BAIS HAVAAD HALACHA CENTER



ALEXA, MAY I SPEAK ON SHABBOS?

What can't you say when someone's always listening?

Adapted from a shiur by Rav Mordechai Lebhav

Amazon's Echo and similar "smart speakers" are devices that provide information, take orders for goods, or activate any of an array of services in response to voice commands.

They operate by constantly recording ambient sound and listening for a "wake word," which for the Echo is "Alexa." Say the wake word and the device replies, cheerfully offering its assistance.

The question arises: Given that the Echo is recording all the time, may one speak in its presence on Shabbos?

Melacha on Shabbos, explains Maharal, is defined as creative activity. Because Hashem rested from Creation on Shabbos, we similarly desist from exercising our own creative powers. In Bava Kama 60 and many places in Masseches Shabbos we learn that only *melechah machsheves* violates Shabbos. This has several implications for what qualifies as *melacha*, including that a *melacha* must be done with thought; must be performed creatively, not destructively; and must not be done *kill'achar yad*, in an unusual manner.

There is a *machlokes Tana'im* in the case of *davar she'aino miskavein*, such as one who pulls a bench across the ground because he wants it somewhere else. Although the action may dig a groove in the ground—*chofer*, a form of the *melacha* of *choresh*—that is not the bench-dragger's intent.

The Halacha follows the view that this is permitted, because it isn't *melechah machsheves*. The perpetrator's intent is to relocate a bench, not to dig a furrow. But this only holds true in a case where the groove would not inevitably result—a *psik reisha*—from the dragging. If the unintended result is an inevitable consequence of the action, one cannot disassociate the result from the action. If dragging this bench will ineluctably produce a furrow, then the creation of the furrow is virtually intentional and meets the requirements of *melechah machsheves*.

Tosfos in Kesubos 6a (s.v. *hai*) cites the view of the Sefer HeAruch that where the unintended but inevitable result is *lo nicha lei*, something the perpetrator doesn't specifically desire, the act remains permissible.

While the *poskim* generally don't follow the Aruch's view on its own, the Mishna Berura (337) rules that in a case of *psik reisha* involving a *shvus d'shvus*—a *d'Rabbanan* atop another *d'Rabbanan*—we can additionally adduce the Aruch's view to rule leniently. The Sephardic *poskim* generally follow the ruling of the Terumas Hadeshen to apply the Aruch's view even in the case of a single *d'Rabbanan*. (See Or L'Tzion Vol. 2 3:10 and Yabia Omer 4:30.)

In the Echo's case, it is debatable whether a *melacha* is being performed by the speaker whose voice is being recorded.

Even according to the Chazon Ish's view that completing an electrical circuit on Shabbos is forbidden *mid'Oraisa*, in this case one is only adding an insignificant load to an existing circuit by speaking. Though Shvus Yitzchok cites stringent views, R' Shlomo Zalman Auerbach (Shulchan Shlomo 308) permits this.

Additionally, one who speaks

(continued on back)



Highlights of a shiur by Rav Yitzchak Grossman

PAINLESS PROCEDURE: ANESTHESIA DURING CIRCUMCISION

Is experiencing pain a requirement for fulfilling the mitzvah of *bris mila*? Many *poskim* have addressed this question in the context of whether it is permitted to anesthetize the baby prior to the *mila* and have taken a variety of approaches.

The *Imrei Yosher* rules that pain is required based on an opinion in the Midrash (*Beresheet Rabbah*) that Avraham experienced pain during his *bris* and received a double reward for the mitzvah as a result. He therefore rules that any type of anesthetic would be forbidden.

Other *poskim* are also *machmir*:

The *Tzitz Eliezer* quotes the importance of tradition: Such a process was never performed during a *bris* in previous generations.

Rav Moshe Feinstein: due to the potential danger involved in undergoing anesthesia (though perhaps topical anesthetics may be permitted).

The *Shevet HaLevi*: the person receiving the *bris* must be awake at the time due to *mitzvos*

spotlight

(continued on back)

The Zichron Gershon Kollel doubled its members after announcing the studying of *ribbis* this zman! Given the complexities of *ribbis*, it was only natural that many outsiders would take advantage of the rare opportunity to delve into this halachically sensitive topic under the auspices of The Bais HaVaad. Bruchim Habaim!

(continued from front pg.)

on Shabbos in his Amazon Echo-equipped home is clearly not intending to record his voice. Though it will happen anyway, it is obviously not *nicha lei*. (See R' Nissim Karelitz's Chut Shani, Vol. 1, Kuntres Hachashmal.)

Similarly, though there is Halachic debate about the permissibility of speaking on Shabbos to a person wearing a hearing aid, all agree that one may speak to a third party even if a hearing-aid wearer is listening in, because this result of one's action is too disconnected from the actor.

Another example of this principle appears in the Chavos Da'as (Y.D. 91:5), who says that

an insubstantial result that doesn't benefit the actor is excluded by *melech machsheves*. R' Shmuel Vosner (Sheivet Halevi 3:45 and 7:42) permits, on this basis, pouring boiling water into a bowl containing small water droplets. The act is too insignificant to constitute *melacha*.

Likewise, it would be permitted to walk on the street on Shabbos while video of the activity is being recorded by an orbiting satellite.

It would seem that being picked up by the Echo's recorder would be comparable to these examples. The result of the speaker's action, though inevitable, is insignificant, and therefore not prohibited as a *psik raisha*.

(continued from front pg.)



tzerichos kavanah or because appointing a *mohel* to be

his *shaliach* to perform the bris only works if he is awake during the *bris*.

Other *poskim* including the Maharsham, Rav Yitzchak Elchanan, and Rav Ovadia Yosef disagree and argue that there is no need to experience pain during a *bris*, and the Midrash does not mandate experiencing pain. In addition, they explain that there is no concern of *shelichus* or *mitzvos tzerichos kavanah*

when a person is functioning normally but is simply sleeping, and tradition alone is an insufficient concern to render it forbidden.

Some contemporary *poskim* take a middle ground:

In a regular *bris mila* for a baby, it is preferable not to use anesthesia.

In a more complicated *bris*, such as an older adult or a case where it will cause an unusual amount of pain, it is permitted.

This approach was taken by the *Shevet HaLevi* as well as Rav Eliashiv, as reported by Rabbi Dr. Abraham in *Nishmas Avraham*.

מסכת מנחות

This Week's Topics

RAV YEHOShUA GRUNWALD
RAV MOSHE ZEEV GRANEK

דף ע'	Harvesting Chadash, Then & Now
דף ע"א	Cutting Off Branches of Fruit Trees
דף ע"ב	Postponing Kiddush Levana
דף ע"ג	The Mitzva of Eating the Meat of the Korban
דף ע"ד	Ice Cream for Dessert: Does it Require a Beracha?
דף ע"ה	What is a Greek Chaf'?
דף ע"ו	Shehechyanu on Mitzvos

EVENTS AT THE BAIS HAVAAD

Bais HaVaad Launches Chaburas Even Haezer for Rabbonim

In a groundbreaking development, the Bais HaVaad is launching an all new project to study and educate community rabbanim on the practical halachos related to *gittin* and *even haezer*, as well as exploring the associated halachos from a *choshen mishpat* perspective. Under the leadership of Harav Yaakov Simiatycki, shlit"a, this program will begin with a curriculum for community rabbanim as well as a weekly shiur for practical application. Rabbi Simiatycki brings with him a wealth of practical experience sitting on *siddur gittin* in Lakewood and abroad, and we wish him and all the rabbanim *hatzlacha rabba!*



Business Halacha
Services



Bais Din
& Dispute
Resolution



Zichron
Gershon Kollel
for Dayanus



Medical Halacha
Center



Kehilla & Bais
Din Privacy
Initiative



Halachic
Awareness &
Education



BAIS HAVAAD HALACHA CENTER

RABBI YEHOShUA WOLFE, MENAHEL
RABBI YEHOShUA GREENSPAN, SAFRA D'DAYNA
105 River Ave, #301, Lakewood, NJ 08701
1.888.485.VAAD (8223)
www.baishavaad.org
info@thehalachacenter.org

MIDWEST DIVISION
RABBI DOVID ARON GROSS
A 3718 SHANNON ROAD
CLEVELAND, OH 44118
P 216.302.8194
E MIDWEST@BAISHAVAAD.ORG

BROOKLYN DIVISION
RABBI DOVID HOUSMAN
A 2238 85TH STREET
BROOKLYN, NY 11214
P 718.285.9535
E RDHOUSMAN@BAISHAVAAD.ORG

SOUTH FLORIDA DIVISION
RABBI YOSEF GALIMIDI, MENAHEL
RABBI MEIR BENGUGUI, SAFRA D'DAYNA
A SAFRA SYNAGOGUE
19275 MYSTIC POINTE DR
AVENTURA, FL 33180
E BD@BAISHAVAAD.ORG