

Using Knowledge Gained from a Former Employer

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Answer: The basic issue at hand in questions like this is whether any system or program that the employee is paid to create for the employer belongs to the employer or not. Within halacha, this issue of the status of intellectual property is discussed at length among the *Acharonim*. According to the *Beis Yitzchak* and *Shoel Umeshiv*, intellectual property has the same status as a physical object, and appropriating it from the owner is considered *gezel*. According to the *Chasam Sofer*, intellectual property may not have the same status as physical property, but it is still problematic to take such information or ideas and use it, since it is considered *yoreid l'soch chayav shel chaveiro*, interfering with the livelihood of another, which is similar to *retzicha* in some sense.

On the other hand, it is clear that if a person develops expertise in a certain field on the job, that expertise is certainly his. Any employer understands that when an employee reaches a certain level of experience and expertise, he may have to pay the employer a significantly higher salary or the employee may leave to start his own business.

We can thus summarize by saying that a program developed for an employer is defined as an object (or a "*cheftza*") and cannot necessarily be taken by someone else without permission (either due to *gezel* or due to harming someone else's livelihood), while a person's abilities and expertise is considered as part of the person (a "*gavra*"), and he may use those capabilities in whatever manner he desires. The boundary between these two concepts is sometimes amorphous and often industry specific. Since this is a complicated issue, and the cases vary, one should consult a Rav with knowledge of choshen mishpat for his individual needs.