

Backing out of an Online Purchase

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Case: While shopping online, a certain item on a Jewish website caught my fancy and I impulsively decided to buy it. Minutes later I regretted the whole thing and would like to cancel the sale. Officially all sales are final, but I'm sure if I threaten to dispute the charge, they'll take it back.

Question: Can I cancel? Can you cancel a final-sale online transaction?

Answer: For regular transactions, the rules of *kinyanim* apply. Which means that if there was no formal act of acquisition, such as lifting the goods or accepting them into your premises, either side can walk away. In limited cases, such as when payment has been rendered, there could be a *mi shepara*, a Rabbinic curse for backing out. More commonly, walking away from an agreement that is only lacking a formal *kinyan* is considered *mechusar amana*, meaning it is morally wrong but unenforceable (2). The clicking of a virtual "place order" button on a computer screen, is certainly not a formal *kinyan*.

However, there is an additional Halacha known as *situmta*. This Halacha extends or even overlooks the formalities of *kinyanim* in times and places where common custom has created other forms of finalizing agreements. The classic *situmta* involved the buyer marking off specific items for purchase, by doing so it was considered to be final, and Halacha recognizes it as such.

Nowadays that online shopping has proliferated to become common practice, the "place order" click is typically considered to be final. Consequently, one can no longer undo that acceptance unless the regular terms and conditions allow for it.

What would present a fascinating question is if you changed your mind immediately after the sale, or at least before you navigated away from the sale site. Typically, even a real *kinyan* has a small window of time that one may change his mind. Whether that would apply to an online sale is questionable.

ע' חו"מ סימן ר"ד ובנו"כ (2)