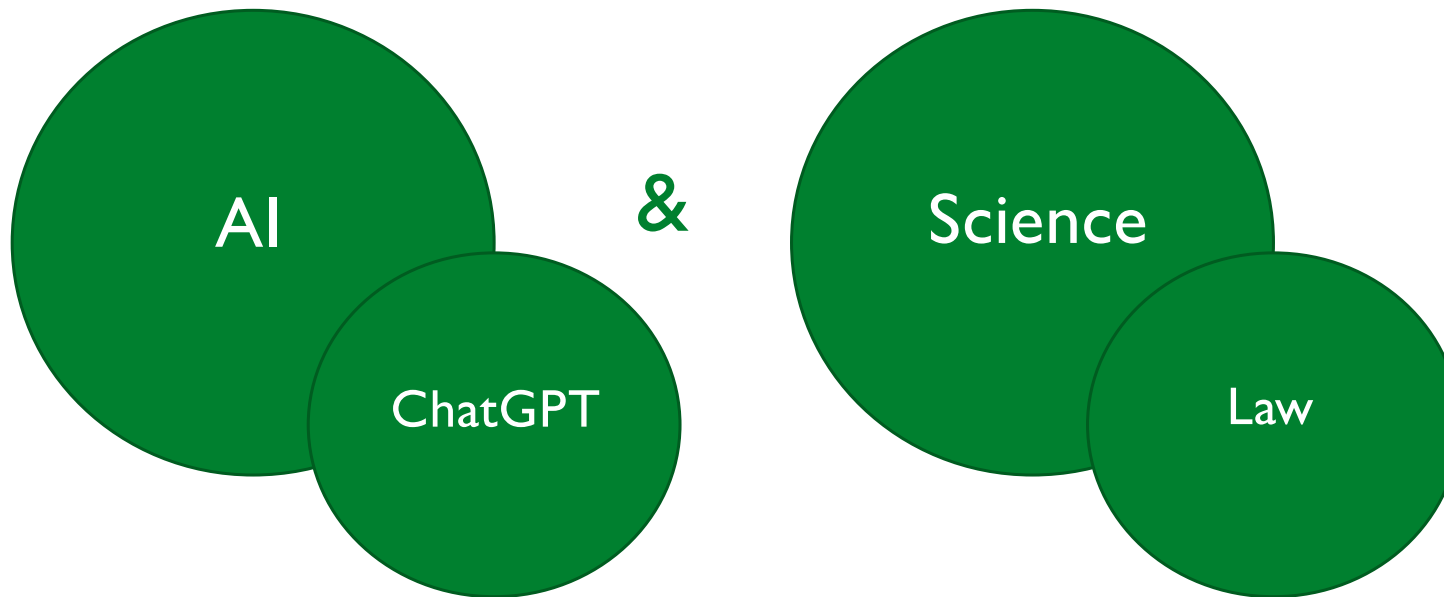University of St.Gallen

Institute for Law of Innovation and Technology

Legal Aspects of ChatGPT

Prof. Dr. Melinda F. Lohmann
Professor for Information and Private Law

Münchenwiler Seminar Spring 2024
Murten, April 20, 2024

From insight to impact.

AI

ChatGPT

&

Science

Law

Agenda

1. Introduction to ChatGPT

2. Legal aspects

    – Liability

    – Intellectual property law

    – Data protection

3. ChatGPT in (Legal) Science

4. Takeaways

University of St.Gallen
Institute for Law of Innovation and Technology

LIT-HSG, Prof. Dr. Melinda Lohmann

Introduction

What is ChatGPT?

Introducing ChatGPT

We've trained a model called ChatGPT which interacts in a conversational way. The dialogue format makes it possible for ChatGPT to answer followup questions, admit its mistakes, challenge incorrect premises, and reject inappropriate requests.

How can I help you today?

Plan a trip to see the best of New York in 3 days	**Suggest fun activities** for a family of 4 to do indoors on a rainy day
Write a thank-you note to our babysitter for the last-minute help	**Plan a trip** to experience Seoul like a local

Message ChatGPT…

"What is ChatGPT, and how does it work?

ChatGPT is an artificial intelligence-based service that you can access via the internet. You can use ChatGPT to organize or summarize text, or to write new text. ChatGPT has been developed in a way that allows it to understand and respond to user questions and instructions. It does this by "reading" a large amount of existing text and learning how words tend to appear in context with other words. It then uses what it has learned to predict the next most likely word that might appear in response to a user request, and each subsequent word after that. This is similar to auto-complete capabilities on search engines, smartphones, and email programs."

- https://help.openai.com/en/articles/7842364-how-chatgpt-and-our-language-models-are-developed

Packages

Services for Individuals

Free
$0 / month

[Try on web ↗]

- ✓ Access to GPT-3.5
- ✓ Regular model updates
- ✓ Access on web, iOS, Android

Plus
$20 / month

[Get started ↗]

- ✓ Access to GPT-4 (our most capable model)
- ✓ Chat with images, voice and create images
- ✓ Use and build custom GPTs
- ✓ and includes everything in Free

Team (>2 people)

Supercharge your team's work

01 Brainstorm and research more effectively

ChatGPT cuts through the noise to provide relevant, real-time information from the web for ideation and research.

02 Quickly pull insights from docs and data

03 Accelerate coding and development

04 Easily build content, from visuals to text

Everything in Plus, and:

- ✓ Higher message caps on GPT-4 and tools like DALL·E, Browsing, Advanced Data Analysis, and more
- ✓ Create and share GPTs with your workspace
- ✓ Admin console for workspace management
- ✓ Team data excluded from training by default. Learn more

Enterprise (big companies)

What's included with Enterprise

- ✓ Unlimited, high speed access to GPT-4 and tools like DALL·E, Browsing, Advanced Data Analysis, and more
- ✓ Expanded context window for longer inputs
- ✓ SAML SSO
- ✓ No training on your data & custom data retention windows
- ✓ Admin controls, domain verification, and analytics
- ✓ Priority support & ongoing account management
- ✓ Dedicated onboarding assistance

Services for Individuals

Game Time
I can quickly explain board or card games to players of any age. Let the games begin!

The Negotiator
I'll help you advocate for yourself and get better outcomes.

Creative Writing Coach
I'm eager to read your work and give you feedback to improve your skills.

Tech Support Advisor
From setting up a printer to troubleshooting a device, I'm here to help you step by step.

Laundry Buddy
Ask me anything about stains, settings, sorting, and everything laundry.

Sous Chef
I'll give you recipes based on the foods you love and ingredients you have.

Sticker Whiz
I'll help turn your wildest dreams into die-cut stickers, shipped right to your door.

Math Mentor
I help parents help their kids in math. Need a refresher on geometry proofs? I'm here.

Team

Document Assistant
Upload a document and I can answer questions about it.

Coding Assistant
I'll help you write and debug your code.

Writing Coach
I can review your work and give you feedback to improve your writing.

Data Analyst
Drop in any files and I can help analyze and visualize your data.

Tech Support Advisor
From setting up a printer to troubleshooting a device, I'm here to help you step-by-step.

Text Extractor
I can help you extract text from an image or PDF.

Visual Designer
I help you create visual assets based on text.

Web Browser
I can browse the web to help you gather information or conduct research.

Enterprise

Coding Wizard
Debugs and improves code to meet specific standards.

Blog Brainstormer
Drafts potential blog copy based on past voice and custom guidelines.

Sales Navigator
Browses the web and uses your competitive analysis data to understand trends.

Data Analyst
Analyzes selected data to highlight trends or build graphics for presentations.

HR Helper
Answers benefits, healthcare, and general HR questions using your company handbook.

Tech Advisor
Frees up your IT team by helping employees through time-consuming tech problems.

Support Guide
Assists staff with customer questions by referencing uploaded guides and docs.

Onboarding Buddy
Uses team-specific instructions to help new employees get setup.

ChatGPT & Liability

US: Fake Cases Cited in Roberto Mata vs. Avianca

Lawyers have real bad day in court after citing fake cases made up by ChatGPT

Lawyers fined $5K and lose case after using AI chatbot "gibberish" in filings.

JON BRODKIN - 6/23/2023, 7:32 PM

Here's What Happens When Your Lawyer Uses ChatGPT

A lawyer representing a man who sued an airline relied on artificial intelligence to help prepare a court filing. It did not go well.

Share full article   1.1K

Canada: Fake Cases Cited in Child Custody Case

Canada lawyer under fire for submitting fake cases created by AI chatbot

Chong Ke, from Vancouver, under investigation after allegedly using ChatGPT to cite case law – but those cases did not exist

Contractual Terms

Europe Terms of Use

Updated
November 14, 2023

Effective: February 15, 2024 (previous versions)

These Terms of Use apply if you reside in the European Economic Area (EEA), Switzerland, or UK. If you live outside of the EEA, Switzerland, or UK, these Terms of Use apply to you.

Thank you for using OpenAI!

These Terms of Use ("**Terms**") apply to your use of ChatGPT, DALL·E, and OpenAI's other services for individuals, along with any associated software applications, technology and websites ("**Services**"), including personal, non-commercial use of our Services by consumers. You form a contract with us when you confirm that you accept these Terms or when you otherwise use the Services.

Our Business Terms govern use of ChatGPT Enterprise, our APIs, and our other services for businesses and developers.

Our Privacy Policy explains how we collect and use personal information. Although it does not form part of these Terms, it is an important document that you should read.

Business terms

Updated
November 14, 2023

(Previous versions)

These OpenAI Business Terms govern use of our APIs, ChatGPT Enterprise, ChatGPT Team, and other services for businesses and developers. Use of our services for individuals, such as ChatGPT or DALL·E, are governed by the Terms of use.

Thank you for choosing OpenAI!

These Business Terms are an agreement between OpenAI, L.L.C. and you ("**Customer**") that governs your use of our Services (as defined below). If you reside within a European Economic Area country or Switzerland, your agreement is with OpenAI Ireland Ltd. By signing up to use the Services, you agree to be bound by these Business Terms. You represent to us that you are lawfully able to enter into contracts and, if you are entering into these Business Terms for an entity, that you have legal authority to bind that entity. These Business Terms also refer to and incorporate the Service Terms, Sharing & Publication Policy, Usage Policies, and any other guidelines or policies we may provide in writing (the "**OpenAI Policies**") and any ordering document signed by you and OpenAI or OpenAI webpage that you use to purchase the Services (an "**Order Form**") (collectively, the "**Agreement**").

Liability – Terms of Use

Our Commitments to You

How We Provide the Services. We commit to provide the Services to you with reasonable skill and care and to act with professional diligence. We do not promise to offer the Services forever or in their current form for any particular period of time.

Liability. Provided that we have acted with professional diligence, we do not take responsibility for loss or damage caused by us, unless it is:

- caused by our breach of these Terms or
- reasonably foreseeable at the time of entering into these Terms.

We do not take responsibility for loss or damage caused by events beyond our reasonable control. We do not exclude or limit our liability to you in any way where it would be unlawful for us to do so. You still have the full protections of the laws applicable to you.

Statutory Rights. You have certain statutory rights that cannot be limited or excluded by a contract like these Terms or that you are legally entitled to, for example, by virtue of being a consumer. These Terms are in no way intended to affect or restrict those rights.

EEA Consumer Guarantee. If you are an EEA-based consumer, then EEA consumer laws provide you with a legal guarantee covering the Services. If you have any questions about your legal guarantee, please contact Support.

Business Use of the Services Addendum

Commercial and Business Use. If you use our Services for commercial or business use, the following terms apply. In the event of a conflict between this *Business Use of the Services Addendum* and the rest of these Terms, this Addendum shall take precedence.

Limitation of Liability. NEITHER WE NOR ANY OF OUR AFFILIATES OR LICENSORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA OR OTHER LOSSES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR AGGREGATE LIABILITY UNDER THESE TERMS WILL NOT EXCEED THE GREATER OF THE AMOUNT YOU PAID FOR THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS BEFORE THE LIABILITY AROSE OR ONE HUNDRED DOLLARS ($100). THE LIMITATIONS IN THIS SECTION APPLY ONLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

Some countries and states do not allow the disclaimer of certain warranties or the limitation of certain damages, so some or all of the terms above may not apply to you, and you may have additional rights. In that case, these Terms only limit our responsibilities to the maximum extent permissible in your country of residence.

OPENAI'S AFFILIATES, SUPPLIERS, LICENSORS, AND DISTRIBUTORS ARE INTENDED THIRD PARTY BENEFICIARIES OF THIS ADDENDUM.

Indemnity. If you are a business or organisation, to the extent permitted by law, you will indemnify and hold harmless us, our affiliates, and our personnel, from and against any costs, losses, liabilities, and expenses (including attorneys' fees) from third party claims arising out of or relating to your use of the Services and Content or any violation of these Terms.

Governing Law (Business Use). California law will govern these Terms except for its conflicts of laws principles. All claims arising out of or relating to these Terms will be brought exclusively in the federal or state courts of San Francisco, California.

Liability – Business Terms

11. Limitation of Liability

11.1 *Limitations on Indirect Damages.* Except for (i) a party's gross negligence or willful misconduct, (ii) your breach of Section 2 (Restrictions), (iii) either party's breach of its confidentiality obligations under Section 4 (Confidentiality), (iv) our breach of Section 5 (Security), or (v) a party's indemnification obligations under this Agreement, neither you nor OpenAI or our respective affiliates or licensors will be liable under this Agreement for any indirect, punitive, incidental, special, consequential, or exemplary damages (including lost profits) even if that party has been advised of the possibility of those damages.

11.2 *Liability Cap.* Except for (i) a party's gross negligence or willful misconduct or (ii) a party's indemnification obligations under this Agreement, each party's total liability under the Agreement will not exceed *the total amount you have paid to us in the twelve (12) months immediately prior to the event giving rise to liability. The foregoing limitations will apply despite any failure of essential purpose of any limited remedy and to the maximum extent permitted under applicable law.*

ChatGPT & Intellectual Property Law

US: Copyright Claims in Front of California Court

ARTIFICIAL INTELLIGENCE / TECH / OPENAI

Sarah Silverman's lawsuit against OpenAI partially dismissed

/ A group of authors, including Silverman, can still pursue their direct infringement claim against the company.

Illustration: The Verge

By **Emilia David**, a reporter who covers AI. Prior to joining The Verge, she covered the intersection between technology, finance, and the economy.

Feb 13, 2024, 9:30 PM GMT+1

2   Comments (2 New)

Input data v. training data

Intellectual Property – Terms of Use

Content

Your Content. You may provide input to the Services ("**Input**"), and receive output from the Services based on the Input ("**Output**"). Input and Output are collectively "**Content**". You are responsible for Content, including ensuring that it does not violate any applicable law or these Terms. You represent and warrant that you have all rights, licences, and permissions needed to provide Input to our Services.

Ownership of Content. As between you and OpenAI, and to the extent permitted by applicable law, you (a) retain your ownership rights in Input and (b) own the Output. We hereby assign to you all our right, title, and interest, if any, in and to Output.

Similarity of Content. Due to the nature of our Services and artificial intelligence generally, Output may not be unique and other users may receive similar output from our Services. Our assignment above does not extend to other users' output or any Third Party Output.

Our Use of Content. We can use your Content worldwide to provide, maintain, develop, and improve our Services, comply with applicable law, enforce our terms and policies and keep our Services safe.

Opt Out. If you do not want us to use your Content to train our models, you have the option to opt out by updating your account settings. Further information can be found in this Help Center article. Please note that in some cases this may limit the ability of our Services to better address your specific use case.

Accuracy. Artificial intelligence and machine learning are rapidly evolving fields of study. We are constantly working to improve our Services to make them more accurate, reliable, safe, and beneficial. Given the probabilistic nature of machine learning, use of our Services may in some situations result in Output that does not accurately reflect real people, places, or facts.

Copyright Complaints

If you believe that your intellectual property rights have been infringed, please send notice to the address below or fill out this form. We may delete or disable Content alleged to be infringing and may terminate accounts of repeat infringers.

> OpenAI, L.L.C.
> 3180 18th St
> San Francisco, California 94110
> Attn: General Counsel / Copyright Agent

Written claims concerning copyright infringement must include the following information:

- A physical or electronic signature of the person authorised to act on behalf of the owner of the copyright interest;
- A description of the copyrighted work that you claim has been infringed upon;
- A description of where the allegedly infringing material is located on our site so we can find it;
- Your address, telephone number, and e-mail address;
- A statement by you that you have a good-faith belief that the disputed use is not authorised by the copyright owner, its agent, or the law; and
- A statement by you, that the above information in your notice is accurate and, under penalty of perjury, that you are the copyright owner or authorised to act on the copyright owner's behalf.

Intellectual Property – Business Terms

3. Content

3.1 *Customer Content*. You and End Users may provide input to the Services ("Input"), and receive output from the Services based on the Input ("Output"). We call Input and Output together "Customer Content." As between you and OpenAI, and to the extent permitted by applicable law, you (a) retain all ownership rights in Input and (b) own all Output. We hereby assign to you all our right, title, and interest, if any, in and to Output.

3.2 *Our Obligations for Customer Content*. We will process and store Customer Content in accordance with our Enterprise privacy commitments. We will only use Customer Content as necessary to provide you with the Services, comply with applicable law, and enforce OpenAI Policies. We will not use Customer Content to develop or improve the Services.

3.3 *Your Obligations for Customer Content*. You are responsible for all Input and represent and warrant that you have all rights, licenses, and permissions required to provide Input to the Services. You are solely responsible for all use of the Outputs and evaluating the Output for accuracy and appropriateness for your use case, including by utilizing human review as appropriate.

3.4 *Similarity of Output*. You acknowledge that due to the nature of our Services and artificial intelligence generally, Output may not be unique and other users may receive similar content from our services. Responses that are requested by and generated for other users are not considered your Output. Our assignment of Output above does not extend to other users' output or any content delivered as part of a Third Party Offering.

Which rights…?

Swiss Copyright Act (CopA)

Art. 2 Definition of works

1 Works are literary and artistic ==intellectual creations== with ==individual character==, irrespective of their value or purpose.

2 They include, in particular:

    a. literary, ==scientific== and other linguistic ==works==;

    b. musical works and other acoustic works;

    c. works of art, in particular paintings, sculptures and graphic works;

    d. works with ==scientific== or technical ==content== such as drawings, plans, maps or three-dimensional representations;

    […]

Art. 6 Definition

The author is the ==natural person== who has created the work.

Art. 9 Recognition of authorship

1 The author has the ==exclusive right to his own work== and the ==right to recognition== of his authorship.

2 The author has the exclusive right to decide whether, when, how and under what author's designation his own work is published for the first time.

3 A work is considered to be published when it has been made available for the first time by the author, or with his consent, to a large number of persons not constituting a private circle as defined in Article 19 paragraph 1 letter a.

Content co-authored with the OpenAI API

Creators who wish to publish their first-party written content (e.g., a book, compendium of short stories) created in part with the OpenAI API are permitted to do so under the following conditions:

- The published content is attributed to your name or company.
- The role of AI in formulating the content is clearly disclosed in a way that no reader could possibly miss, and that a typical reader would find sufficiently easy to understand.
- Topics of the content do not violate OpenAI's Content Policy or Terms of Use, e.g., are not related to adult content, spam, hateful content, content that incites violence, or other uses that may cause social harm.
- We kindly ask that you refrain from sharing outputs that may offend others.

For instance, one must detail in a Foreword or Introduction (or some place similar) the relative roles of drafting, editing, etc. People should not represent API-generated content as being wholly generated by a human or wholly generated by an AI, and it is a human who must take ultimate responsibility for the content being published.

Here is some stock language you may use to describe your creative process, provided it is accurate:

> The author generated this text in part with GPT-3, OpenAI's large-scale language-generation model. Upon generating draft language, the author reviewed, edited, and revised the language to their own liking and takes ultimate responsibility for the content of this publication.

…what about the training?

(1) information that is **publicly** available on the internet,
(2) information that OpenAI **licenses** from third parties,
(3) information that **users** or human trainers **provide**

Swiss Copyright Act (CopA)

⤷ Art. 19 Private use

1 Published works may be used for private use. Private use means:

 a. any personal use of a work or use within a circle of persons closely connected to each other, such as relatives or friends;

 b. any use of a work by a teacher and his class for educational purposes;

 c. the copying of a work in enterprises, public administrations, institutions, commissions and similar bodies for internal information or documentation.

⤷ Art. 24a[17] Temporary copies

The making of temporary copies of a work is permitted if:

 a. they are transient or incidental;

 b. they represent an integral and essential part of a technological process;

 c. their sole purpose is to enable a transmission of the work in a network between third parties by an intermediary or a lawful use of the work; and

 d. they have no independent economic significance.

Art. 24d Use of works for the purposes of scientific research

1 For the ==purposes of scientific research==, it is permissible to ==reproduce a work if the copying is due to the use of a technical process== and if the ==works to be copied can be lawfully accessed.==

2 On conclusion of the scientific research, the copies made in accordance with this article ==may be retained for archiving and backup purposes.==

3 This article does not apply to the copying of computer programs**.**

➡️ **Text and Data Mining**

Legal questions

May ChatGPT be trained with copyright-protected data?
- Exemption provision under CopA?
- Licences?
- Subsequent deletion of protected content?

- Text and Data Mining?
- Scientific research needs to be the primary purpose of the reproduction.
- What does the term "scientific research" mean?
  - Academic research
  - Commerical research

Intellectual Property – Business Terms

10. Indemnification

10.1 *By Us.* We agree to defend and indemnify you for any damages finally awarded by a court of competent jurisdiction and any settlement amounts payable to a third party arising out of a third party claim alleging that the Services (including training data we use to train a model that powers the Services) infringe any third party intellectual property right. This excludes claims to the extent arising from: (a) combination of any Services with products, services, or software not provided by us or on our behalf, (b) fine-tuning, customization, or modification of the Services by any party other than us, (c) the Input or any training data you provide to us, (d) your failure to comply with this Agreement or laws, regulations, or industry standards applicable to you, or (e) Customer Applications (if the claim would not have arisen but for your Customer Application). If we reasonably believes that all or any portion of the Services is likely to become the subject of any infringement claim, we (x) will procure, at our expense, the right for you to continue using the Services in accordance with this Agreement, (y) will replace or modify the allegedly infringing Service so it is non-infringing, or (z), if (x) and (y) are not commercially practicable, we may, in our sole discretion, terminate this Agreement upon written notice to you and refund any prepaid amounts for unused Services. You will promptly comply with all reasonable instructions we provide you with respect to (x) through (y) above, including any instruction to replace, modify, or cease use of an impacted Service.

„Wooing, not Suing"

Robert Thomson, Chief Executive of Rupert Murdoch's News Corp.

- OpenAI is sealing licensing deals, i.e. with Associated Press, Axel Springer (owner of Bild and Politico), Le Monde and Spain's Prisa Media
- Photo library Shutterstock has licensed its archive to both OpenAI and Meta
- Online forums Reddit and Tumblr reportedly licensing their content to AI firms as well

– The Economist, Generative AI is a marvel. Is it also built on theft?,
Apr 14th 2024

Do-It-Yourself: Getty GenAI
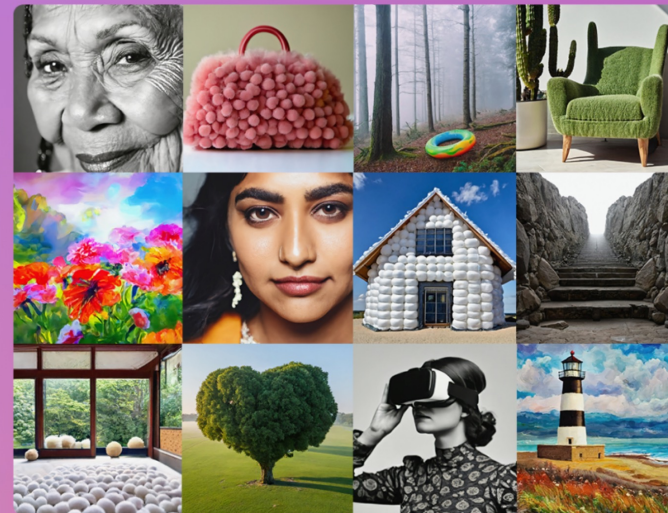
ChatGPT & Data Protection

Data Protection – Privacy Policy

2. Personal Data we collect

We collect personal data relating to you ("Personal Data") as described below:

Personal Data You Provide: We collect the following Personal Data when you create an account or communicate with us-

- *Account Information:* When you create an account with us, we collect information associated with your account, including your name, contact information, account credentials, payment card information, and transaction history (collectively, "Account Information").
- *User Content:* When you use our Services, we collect Personal Data that is included in the input, file uploads, or feedback that you provide to our Services ("Content").
- *Communication Information:* If you communicate with us, we collect your name, contact information, and the contents of any messages you send (collectively, "Communication Information").
- *Social Media Information:* We have pages on social media sites like Instagram, Facebook, Medium, X, YouTube and LinkedIn. When you interact with our social media pages, we collect Personal Data that you choose to provide to us, such as your contact details (collectively, "Social Media Information"). In addition, the companies that host our social media pages may provide us with aggregate information and analytics about our social media activity.

Other Information You Provide: We collect other information that you may provide to us, such as when you participate in our events or surveys or provide us with information to establish your age or identity (collectively, "Other Information You Provide").

Personal Data We Receive Automatically From Your Use of the Services: When you visit, use, or interact with the Services, we receive the following information ("Technical Information"):

- *Log Data:* Information that your browser or device automatically sends when you use our Services. Log data includes your Internet Protocol address, browser type and settings, the date and time of your request, and how you interact with our Services.
- *Usage Data:* We may automatically collect information about your use of the Services, such as the types of content that you view or engage with, the features you use and the actions you take, as well as your time zone, country, the dates and times of access, user agent and version, type of computer or mobile device, and your computer connection.
- *Device Information:* Includes name of the device, operating system, device identifiers, and browser you are using. Information collected may depend on the type of device you use and its settings.
- *Cookies and Similar Technologies:* We use cookies and similar technologies to operate and administer our Services, and improve your experience. For details about our use of cookies, please visit our Cookie Notice.

Personal Data We Receive From Other Sources: We collect information from other sources, like information that is publicly available on the internet, in particular to develop the models that power our Services. We also receive information from our trusted partners, such as security partners to protect against fraud, abuse, and other security threats to our Services or marketing vendors who provide us with information about potential customers of our business services.

For more information on the sources of information used to develop our large language models, please see this notice.

Data Protection – Business Terms

4. Confidentiality

4.1 *Use and Nondisclosure.* "Confidential Information" means any business, technical or financial information, materials, or other subject matter disclosed by one party ("Discloser") to the other party ("Recipient") that is identified as confidential at the time of disclosure or should be reasonably understood by Recipient to be confidential under the circumstances. For the avoidance of doubt, Confidential Information includes Customer Content. Recipient agrees it will: (a) only use Discloser's Confidential Information to exercise its rights and fulfill its obligations under this Agreement, (b) take reasonable measures to protect the Confidential Information, and (c) not disclose the Confidential Information to any third party except as expressly permitted in this Agreement.

4.2 *Exceptions.* The obligations in Section 4.1 do not apply to any information that (a) is or becomes generally available to the public through no fault of Recipient, (b) was in Recipient's possession or known by it prior to receipt from Discloser, (c) was rightfully disclosed to Recipient without restriction by a third party, or (d) was independently developed without use of Discloser's Confidential Information. Recipient may disclose Confidential Information only to its employees, contractors, and agents who have a need to know and who are bound by confidentiality obligations at least as restrictive as those of this Agreement. Recipient will be responsible for any breach of this Section 4 by its employees, contractors, and agents. Recipient may disclose Confidential Information to the extent required by law, provided that Recipient uses reasonable efforts to notify Discloser in advance.

5. Security

5.1 *Our Security Program.* We will maintain an information security program (including the adoption and enforcement of internal policies and procedures) designed to (a) protect the Services and Customer Content against accidental or unlawful loss, access, or disclosure, (b) identify reasonably foreseeable and internal risks to security and unauthorized access, and (c) minimize security risks, including through regular risk assessments and testing.

5.2 *Our Security Obligations.* As part of our information security program, we will: (a) implement and enforce policies related to electronic, network, and physical monitoring and data storage, transfer, and access; (b) deploy production infrastructure behind VPNs where possible; (c) require multi-factor authentication for employees; (d) configure network security, firewalls, accounts, and resources for least-privilege access; (e) maintain a logging and incident response process; (f) maintain corrective action plans to respond to potential security threats; and (g) conduct periodic reviews of our security and the adequacy of our information security program as aligned to industry best practices and our own policies and procedures.

6. Privacy

6.1 *Personal Data.* If you use the Services to process personal data, you must (a) provide legally adequate privacy notices and obtain necessary consents for the processing of personal data by the Services, (b) process personal data in accordance with applicable law, and (c) if processing "personal data" or "Personal Information" as defined under applicable data protection laws, execute our Data Processing Addendum by filling out this form.

6.2 *HIPAA.* You agree not to use the Services to create, receive, maintain, transmit, or otherwise process any information that includes or constitutes "Protected Health Information", as defined under the HIPAA Privacy Rule (45 C.F.R. Section 160.103), unless you have signed a Healthcare Addendum and Business Associate Agreement (together, the "Healthcare Addendum") with us prior to creating, receiving, maintaining, transmitting, or otherwise processing this information.

Swiss Federal Act on Data Protection (FDAP)

Art. 2 Personal and material scope of application

1 This Act applies to the ==processing of personal data of natural persons== by:

    a. private persons;

    b. federal bodies.

2 It does ==not apply== to:

    a. personal data being processed by a natural person ==exclusively for personal use==; […]

Art. 6 Principles

1 Personal data must be processed ==lawfully==.

2 The processing must be carried out in ==good faith== and be ==proportionate==.

3 Personal data may only be collected for a ==specific purpose that the data subject can recognise==; personal data may only be further processed in a manner that is compatible with this purpose.

4 They shall be destroyed or anonymised as soon as they are no longer required for the purpose of processing.

5 Any person who processes personal data must satisfy themselves that the data are ==accurate==. They must take all appropriate measures to correct, delete or destroy data that are incorrect or incomplete insofar as the purpose for which they are collected or processed is concerned. The appropriateness of the measures depends in particular on the form and the extent of the processing and on the risk that the processing poses to the data subject's personality or fundamental rights.

6 If the ==consent of the data subject is required==, such consent is only valid if given ==voluntarily== for one or more ==specific instances of processing== based on ==appropriate information==.

Art. 30 Breaches of personality rights

3 In general ==no breach of personality rights== arises if the ==data subject makes the personal data generally accessible== and has ==not explicitly prohibited any processing==.

Art. 31 Grounds for justification

1 A breach of personality rights is unlawful unless it is justified by the consent of the data subject, by an overriding private or public interest, or by the law.

2 The controller may have an overriding interest in the following cases in particular: […]

    e. The controller processes the personal data ==for purposes not related to specific persons, in particular for research==, planning or ==statistics==, provided the following requirements are satisfied:

      1. The controller anonymises the data as soon as the purpose of processing permits; if anonymity is impossible or if it requires disproportionate effort, the controller shall take appropriate measures to prevent the identification of the data subject.

      2. If the matter involves sensitive personal data, the controller shall disclose such data to third parties in such a manner that the data subject is not identifiable; if this is not possible, it must be guaranteed that the third parties only process the data for purposes unrelated to the data subject's person.

      3. The results are published in such a manner that data subjects are not identifiable.

SwissGPT

SwissGPT

Lösungen im Überblick

Dank der **exklusiven Partnerschaft** mit AlpineAI können wir Ihnen das komplette Portfolio von SwissGPT zur Verfügung stellen.
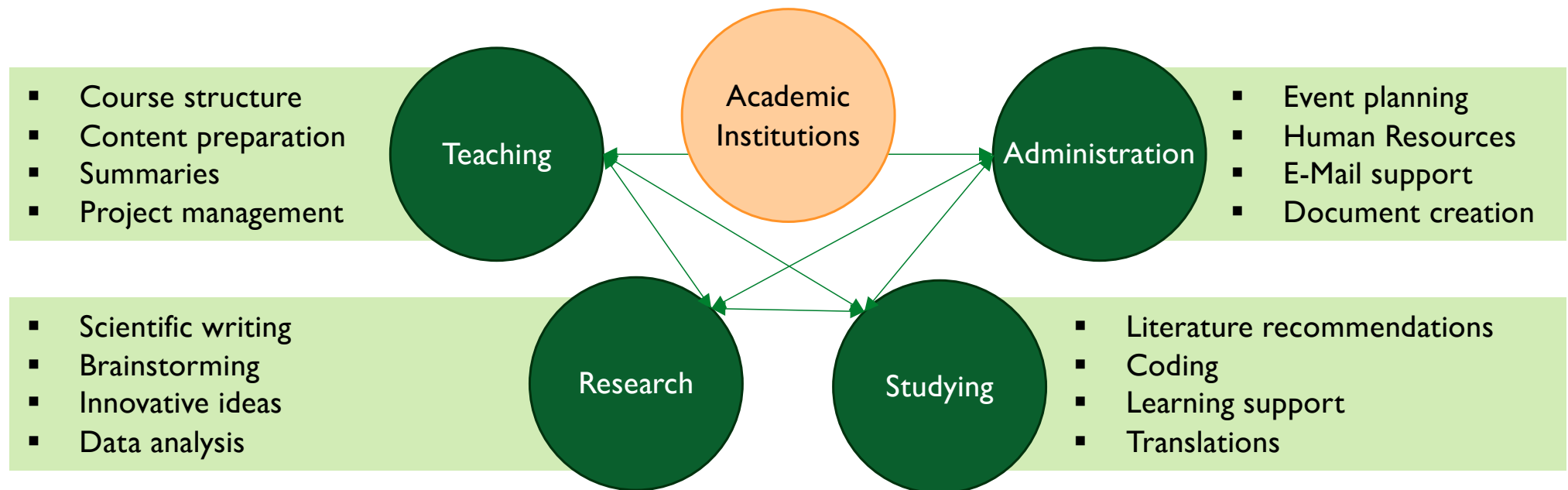
Leistungen	SwissGPT Shield	SwissGPT Smart Shield	SwissGPT Enterprise+
Autom. Anonymisierung der Eingabedaten	✓	✓	✓
Auswahl der zu anonymisierenden Daten	✓	✓	✓
Sicherer Zugriff auf ChatGPT, Gemini, etc.	✓	✓	✓
Webzugriff / SaaS Lösung	✓	✓	✓
Integration ins RIZ Self Service Portal	✓	✓	✓
Datenschutz-Konform (CH revDSG, DSGVO)	✓	✓	✓
Kontinuierliches Lernen aus Daten	✗	✓	✓
Integration von automatisierten Prozessen	✗	✓	✓
Integration öffentlicher Datensätze	✗	✓	✓
Privates LLM in RIZ Rechenzentren (CH)	✗	✗	✓
Massgeschneiderte KI für Ihr Unternehmen	✗	✗	✓
Integration interner Datensätze	✗	✗	✓
Integration interner Prozesse & Tools	✗	✗	✓

ChatGPT in (Legal) Science

Use Cases – Academia & Science

Science is the pursuit and application of knowledge and understanding of the natural and social world following a systematic methodology based on evidence.

- Course structure
- Content preparation
- Summaries
- Project management

Teaching

Academic Institutions

Administration

- Event planning
- Human Resources
- E-Mail support
- Document creation

- Scientific writing
- Brainstorming
- Innovative ideas
- Data analysis

Research

Studying

- Literature recommendations
- Coding
- Learning support
- Translations

Accuracy

Accuracy. Artificial intelligence and machine learning are rapidly evolving fields of study. We are constantly working to improve our Services to make them more accurate, reliable, safe, and beneficial. Given the probabilistic nature of machine learning, use of our Services may in some situations result in Output that does not accurately reflect real people, places, or facts.

When you use our Services you understand and agree:

- Output may not always be accurate. You should not rely on Output from our Services as a sole source of truth or factual information, or as a substitute for professional advice.

- You must evaluate Output for accuracy and appropriateness for your use case, including using human review as appropriate, before using or sharing Output from the Services.

- You must not use any Output relating to a person for any purpose that could have a legal or material impact on that person, such as making credit, educational, employment, housing, insurance, legal, medical, or other important decisions about them.

- Our Services may provide incomplete, incorrect, or offensive Output that does not represent OpenAI's views. If Output references any third party products or services, it doesn't mean the third party endorses or is affiliated with OpenAI.

Erlass in Kraft
Erlass Nr. III.A.03.4
Stand 24. November 2023
Beschluss 24. November 2023

III.A.03.4

Weisung

des Rektors über die Verwendung von ChatGPT

vom 24. November 2023 (Stand: 24. November 2023)

Der Rektor der Universität St.Gallen

erlässt

gestützt auf

Art. 94 Abs. 1 Universitätsstatut vom 25 Oktober 2010 ⬏ 1 und Anhang 1 und 2 Weisung des Rektors zur Umsetzung des Personalreglements vom 22. März 2016 ⬏ 2

als Weisung:

A. Hauptteil

Art. 1 Gegenstand und Geltungsbereich

[1] Mit diesem Erlass wird die Nutzung von ChatGPT durch die Angehörigen der Universität geregelt.

[2] Mit ChatGPT ist ausschliesslich die KI-Applikation von OpenAI gemeint, die unter folgendem Link abgerufen werden kann: https://chat.openai.com.

[3] Die studienrechtlichen Erlasse zum Einsatz von ChatGPT gehen für die Studierenden vor.

[4] Die Nutzung von anderen bzw. vergleichbaren KI-Applikationen ist nicht Regelungsgegenstand und bedarf einer eigenständigen Beschaffung und Datenschutzabklärung. Dasselbe gilt für (third party) Applikationen, die mit einer Schnittstelle (sog. API) auf die Dienstleistungen von ChatGPT zugreifen.

[5] Im Speziellen die GPT von ChatGPT dürfen erstellt und genutzt werden.

ChatGPT@HSG

∧ Documentation requirement for content generated by AI tools

From the **spring semester 2024**, students must not only declare the use of AI-based tools in their theses and papers, but also **document the content generated by AI tools**.

Bachelor's and Master's **theses registered before 1 February 2024 are excluded** from this regulation.

Therefore, when using ChatGPT and other AI tools, you should save all prompts and results in a separate directory. You only need to attach this documentation if the **supervisor specifically requests it**. However, the documentation can also be requested after submission of the written work. **→ Creating a prompt directory**

We realise that providing such documentation involves additional work. However, it is standard scientific practice to ensure that readers and the scientific community can **verify our research and its contributions**, in particular with regard to the collection and analysis of empirical data.

At present, it is difficult to predict how AI applications will establish themselves as research tools, and thus set new scientific standards. Similarly, it is unclear how the findings obtained with the help of AI tools will be assessed with the benefit of hindsight in the future. Documenting AI-generated content therefore also serves to maintain the principle of verifiability and thus our **academic integrity** in the long run.

The precepts for the documentation requirement are laid down in the Directives of the Dean of Studies (para. 5.3).

Legal bases

⚖ Directives of the Dean of Studies

ChatGPT@HSG

⌃ Chatbots and AI tools

So-called **chatbots such as ChatGPT and other AI tools**, in particular, give rise to new challenges regarding research, degree courses and teaching. These aids and others can be used at universities in two different ways: they can either be banned as a matter of principle or utilised constructively and creatively. The HSG has come down in favour of the second option.

This allows for the **use of chatbots as aids** (similar to literature mar tools), but thus restricts their use. Written work continues to mean of a specific topic within a specified period of time.

Only if **chatbots are clearly declared** is their use permitted, and th independently will remain intact.

⌃ Legal responsibility and consequences

Further contents of the Declaration of Authorship aim to ensure that the students assume legal **responsibility for what they have written** and comply with the provisions concerning publication and dissemination (Directives of the Dean of Studies, para. 5.7), and that the University of St.Gallen will be able to take administrative action.

An infringement of the Declaration of Authorship will be deemed to constitute **dishonesty in examinations** (Art. 38(1) ER BL / Art. 40(1) ER ML) and may entail **disciplinary** sanctions.

The version of the Declaration of Authorship valid at any given time can be retrieved from the collection of laws of the University of St.Gallen.

Germany: Administrative Court Munich Decides Against Use of ChatGPT in Essay Writing for Univeristy Application

© Pixabay / stokpic

BELIEBT

TU MÜNCHEN

Urteil zum Einsatz von ChatGPT

Die TU München wies einen Bewerber ab, der im Eignungstest vermutlich KI eingesetzt hatte. Das Verwaltungsgericht gab der Uni nun recht.

# Implications for Job Market and Higher Education

Jetzt trifft es die Hochqualifizierten: Die Buchhalter, Designer und Informatiker zittern vor der künstlichen Intelligenz

Die Bildung bietet keinen Schutz mehr vor der nächsten Automatisierungswelle. Erwerbstätige sind zu einem Lohnverzicht von 20 Prozent bereit, um das Risiko eines Jobverlusts auszuschalten.

———

Albert Steck

13.04.2024, 21.45 Uhr ⏱ 5 min

🎧 Hören 🔖 Merken 🖶 Drucken ↗ Teilen
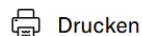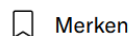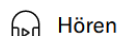
„With 62% of total work time involving language-based tasks, the widespread adoption of LLMs, such as ChatGPT, could significantly impact a broad spectrum of job roles."
– WEF White Paper Jobs of Tomorrow 9/23

Key Topics:

- AI is as revolutionary as the invention of electricity
- 12 Mio. employees in the US will need to change their job until 2030
- White collar jobs are affected, e.g. designers, computer scientists, accountants, court clerks
- Great fear of losing their jobs: rather loose money than loose job (20% less pay)
- Changing careers needs to become normalized
- Future skills: overarching capabilities, such as learning, networking and self-management skills
- Political engagement for higher workplace security

Takeaways

Takeaways

1 ChatGPT can enhance scientific progress, but requires careful legal, ethical and sustainability considerations.

2 Be careful about what kind of personal information you provide to ChatGPT in your prompts.

3 If you use ChatGPT for professional purposes, be aware of intellectual property rights and choose ChatGPT Enterprise/Team.

4 Using AI for scientific purposes may reduce legal obligations and boundaries.

5 The regulatory landscape is rapidly evolving and requires continuous review.

6 ChatGPT will most likely have a profound impact on the way we teach, learn and work.

Thank you!

Prof. Dr. Melinda F. Lohmann

Professor for Information and Private Law

+41 71 224 28 11

melinda.lohmann@unisg.ch

University of St.Gallen

Institute for Law of Innovation and Technology

University of St.Gallen (HSG)
Institute for Law of Innovation and Technology
Bodanstrasse 3
9000 St.Gallen

lit.unisg.ch

EQUIS ACCREDITED

AACSB ACCREDITED

ASSOCIATION OF MBAs ACCREDITED