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The Legal Framework of OER Usage in the Context of Artificial Intelligence

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HSLU Hochschule Luzern   UNIVERSITÄT LUZERN   PH LUZERN PÄDAGOGISCHE HOCHSCHULE   / HB Zentral- und Hochschulbibliothek Luzern

Agenda

❑ **What** are **Open Educational Resources**?

❑ **Creative Commons licenses**

❑ **What** can be used to **train AI**?

❑ **What** is **protected** by **copyright**?

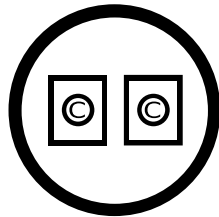❑ **How** to create **Open Educational Resources** with **AI**?

What are **Open Educational Resources**?

OPEN DEFINITION 2.1

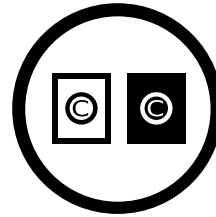**Summary:** *Knowledge is open if anyone is free to access, use, modify, and share it — subject, at most, to measures that preserve provenance and openness.*

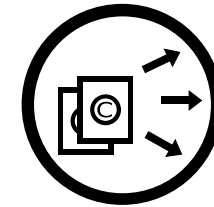*(https://opendefinition.org/od/2.1/en/)*

Anyone
can and should

COPY...

MODIFY...

SHARE...

...for any purpose

CCdigitallaw.ch

Copyright law

Nobody except owner of the Copyrights is **allowed** to **copy**, **re-distribute** or **modify** for **any purposes** (exceptions: private use, educational purpose, quotation, ect.).

Creative Commons

Everybody is allowed to **reproduce**, **share** in whole or part and **modify** (except: ND), for **any purposes** (except: NC).

Open Science

Everybody has to be **allowed** to **use**, **re-distribute**, **modify**, an existing resource with other resources **for any purpose**.
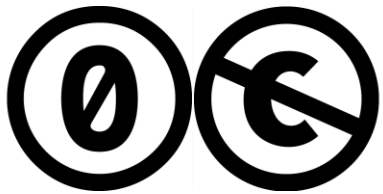
OER-Lizenzen…

- Non-profit organisation

- 7 pre-formulated licenses

- 1 public domain tools

- 4 License elements (BY-SA-NC-ND)

- Legal enforceability

- Effective worldwide

- Only copyright

![Creative Commons logo]

License elements

| CC0	BY	SA	NC	ND
Zero / public domain	**Attribution**	**Share alike**	**Non-commercial**	**No-derivatives**
No conditions	**Condition**	**Condition**	**Limit**	**Limit**
→ everything allowed (apart from respect personality author)	→ Where can the original be found and the author	→ Preservation of openness	Not for commercial purposes	No modifications
	→ Several attribution obligations			
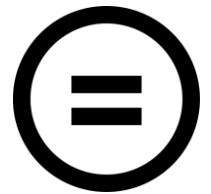
All Creative Commons Licenses
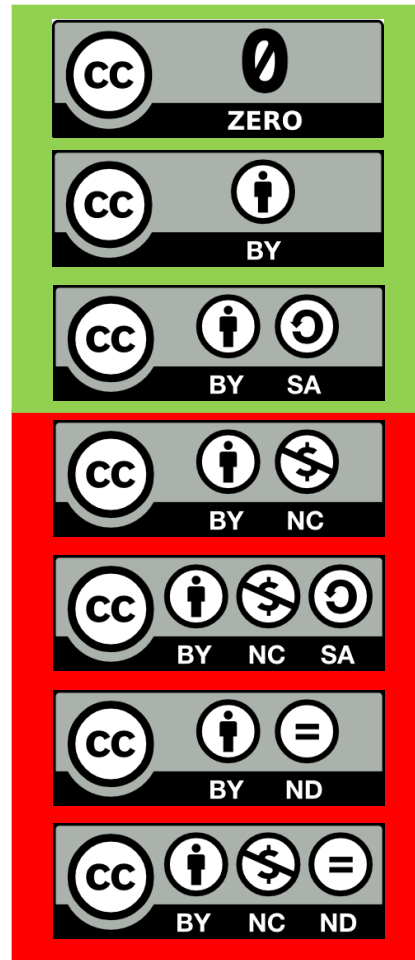
OER definition from opendefinition.org
(also Berlin Declaration of Open Access).

NOT «open» in the sense of opendefinition.org

More information:

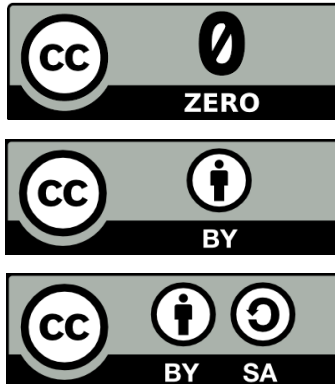- creativecommons.org

- creativecommons.ch

CCdigitallaw.ch
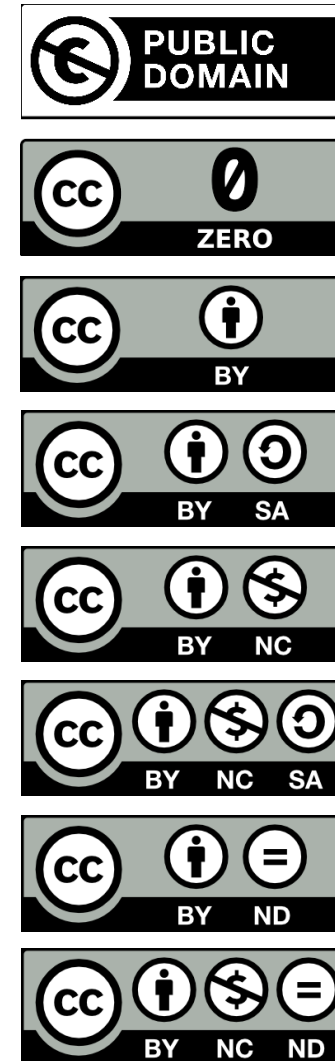
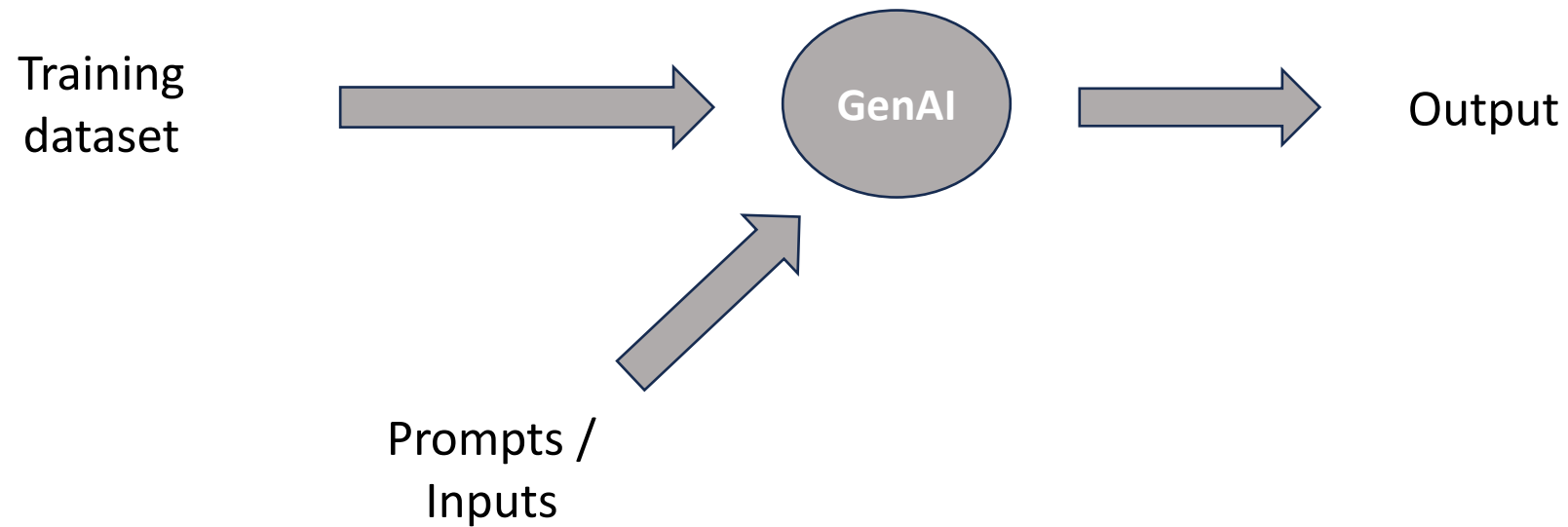**Right to attribution**

The copyright holder

Only the **copyright holder** is allowed to

choose and **attach** a **license** on their work!

What can be used to **train AI**?

Generative AI and Copyright

Training
dataset

→

GenAI

→

Output

↗

Prompts /
Inputs

What can be used to train AI?

Training dataset ➜ **GenAI**

- Copyrighted works:

  ✓ **License to use** (specific license or predefined license Creative Commons)

  ✓ Copyright exception: **Text and data mining** (art. 24d Swiss Copyright Act)

    → Only for research purposes!

- Not copyrighted content (public domain content) PUBLIC DOMAIN

What can be used to train AI?

Training dataset

GenAI

Output

Prompts / Inputs

→ If you upload **copyrighted content** in your **prompts**, make sure it is not **further used to train** the GenAI tool. Unless it has a CC license!
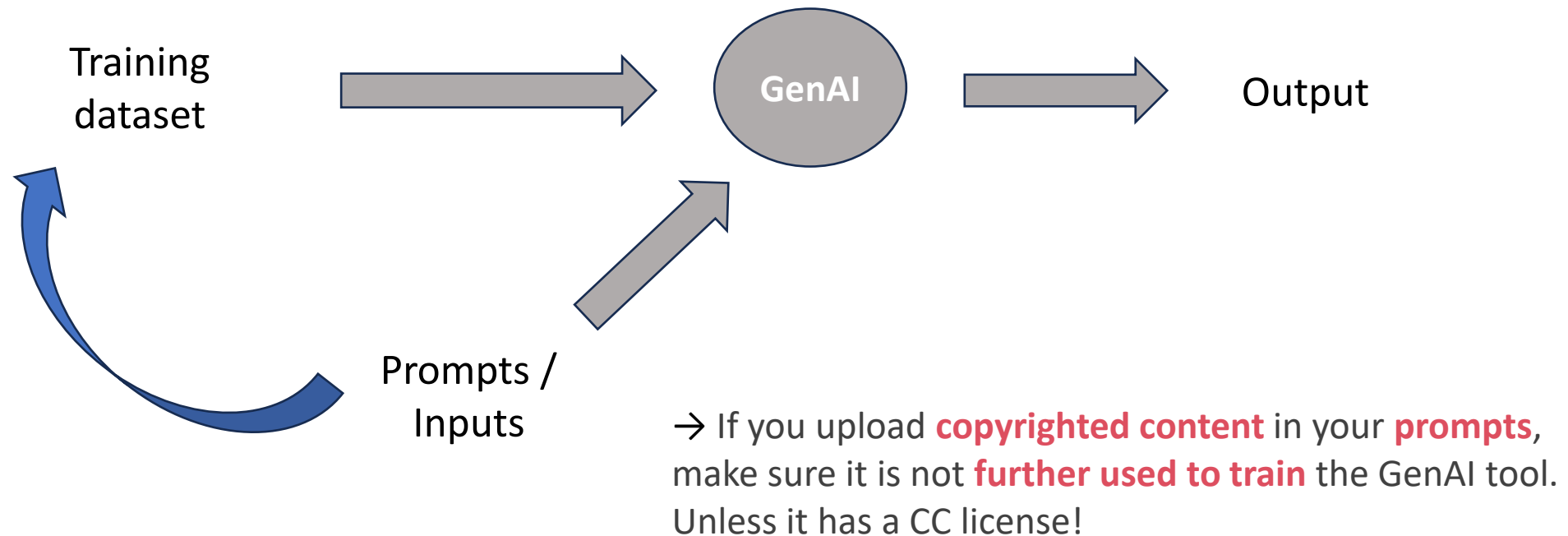
What is protected by **copyright**?

What is protected by copyright?

GenAI → Output

Prompts / Inputs
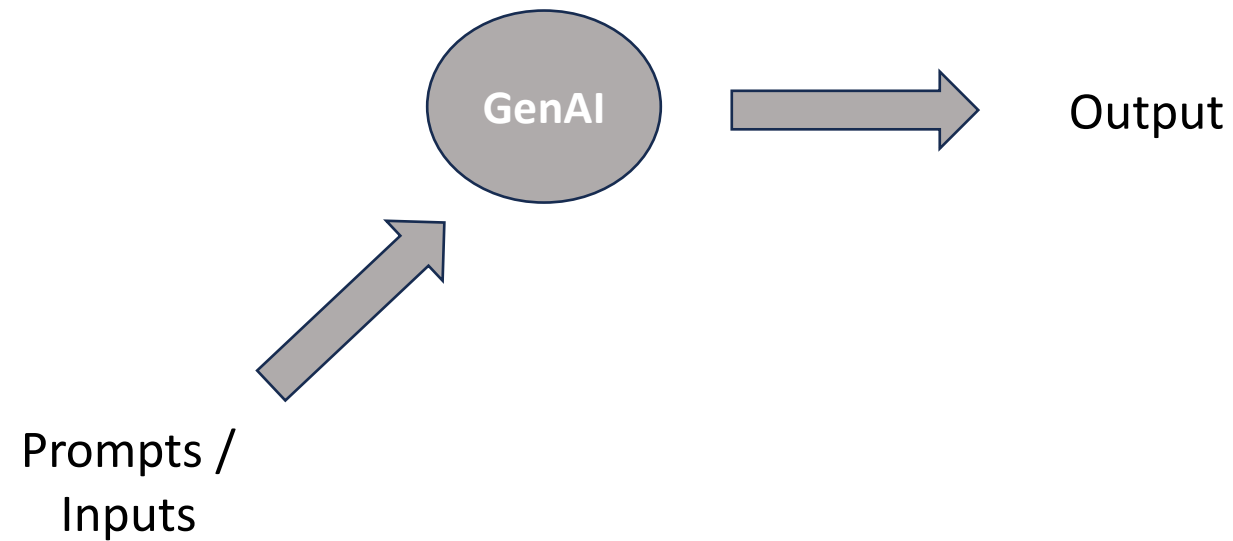
Copyrighted work

Any literary and artistic creation

→ Automatically protected by copyright

- o **Intellectual creation**
- o **Form of expression**
- o **Individual character**

Copyrighted work

Exception (Swiss law): photographs

→ Automatically protected by copyright

- o **Intellectual creation**
- o **Form of expression**
- o **Depiction of three-dimensional object**

Created by a human?

James Allen, (Midjourney)

James Allen, Théâtre d'Opéra Spatial

Created by a human?

Kris Kashtanova

How to create **Open Educational Resources** with **AI**?

1. Create your educational material

2. You are the author and if you are also the copyright holder you are protected during all your life + 70 years (for photographs without originality you are protected for 50 years since capture).

3. You can share your work with a Creative Commons license, allowing anyone to reuse it. However, the license is only valid for the parts that YOU have created.

! AI-generated content used and mixed in your OER is not protected by copyright !

To consider:

➤ What is generated by AI is NOT protected by copyright

→ it is PUBLIC DOMAIN and has no authorship

Ethics and AI international regulations: **inform about what is AI generated**
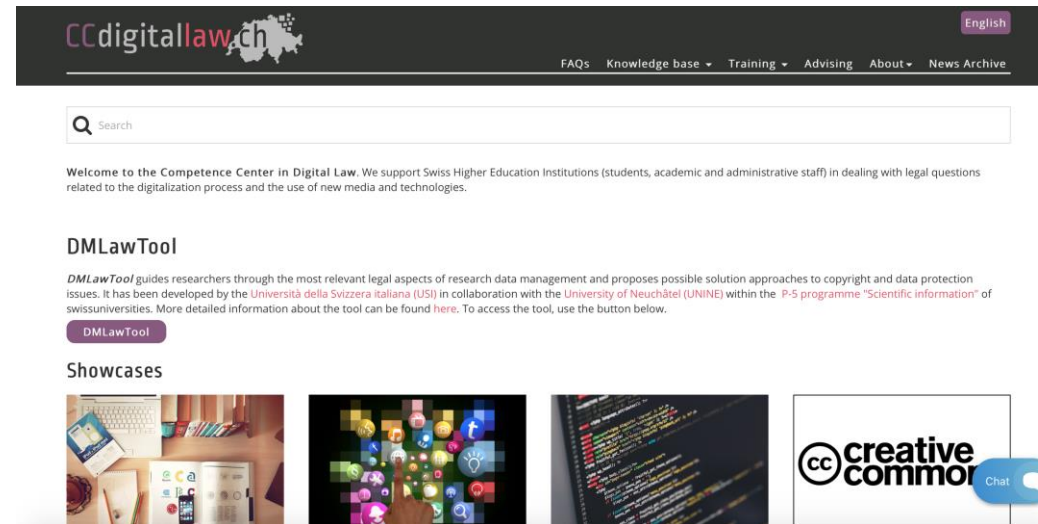
Thank you for your attention!

References:

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