

WINDOWS AND 'WINDOWS':
REFLECTIONS ON LAW AND LITERATURE
IN THE DIGITAL AGE†

If art teaches anything . . . it is the privateness of the human condition. Being the most ancient as well as the most literal form of private enterprise, it fosters in a man, knowingly or unwittingly, a sense of his uniqueness, of individuality, of separateness – thus turning him from a social animal into an autonomous 'I.' – Joseph Brodsky, 1987 Nobel Lecture

I *Introduction*

Our digital age surrounds us with an ever-growing quantity of information, with fragmented stories and counter-stories, and with an incessant flow of moving images. Poetic structures are disjointed, coherent narratives inaudible.¹ Literature, it seems, is rapidly losing its cultural prominence;² its claim and aspirations to have a significant bearing on other disciplines appear less and less viable. In particular, the interdisciplinary study of law and literature finds itself today in a confused and aimless state, its once well established status threatened, its once clear *raison d'être* in doubt.

Nevertheless, I will argue here that it is now more essential than ever to focus on the links between law and literature, because literature – and, in particular, the poetic idea – possesses unique abilities to constitute and maintain the senses of self and of the other upon which the authority and legitimacy of law depend. I will present the poetic idea as an expression of a particular stance toward the world, one ascribing to poetics the power to generate messages that make possible effective interpersonal communication. Poetic productions can faithfully represent, as nothing else can, their author's inner experiences, consciousness, values,

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1 See Shulamit Almog, 'From Sterne and Borges to Lost Storytellers: Cyberspace, Narrative and Law' (2002) 13 *Fordham I.P. Media & Ent.L.J.* 1 [Almog, 'From Sterne'].

2 For a thorough elaboration of this claim see Sven Birkerts, *The Gutenberg Elegies: The Fate of Reading in an Electronic Culture Age* (Winchester, MA: Faber & Faber, 1994) [Birkerts, *Gutenberg*].

