Legal interpretation consists in the interpretation of texts and, hence, has a natural connection to the philosophy of language. However, one may ask to which extent the philosophy of language may contribute to legal methodology, for example, if it can supply criteria for determining the meaning of texts. Just to the contrary, some linguistic conceptions rather seem to be destructive to legal methodology, for example views as that there is no linguistic meaning that might bind a legal interpreter. Another objection to the importance of semantic arguments in law comes from theories of argumentation which emphasize the normative character of legal interpretation, aiming at the justification of particular legal norms. Within such a thoroughly normative context semantic arguments seem to have no particular force and little relevance.

In his dissertation “Theorie der Wortlautgrenze”, Matthias Klatt aims at rehabilitating the semantic argument within legal argumentation. The work was supervised by Robert Alexy and received the “European Award for Legal Theory 2002”. Klatt asks how a theory of semantic boundaries (Wortlautgrenzen) can be possible in spite of the openness and indeterminacy of literal meaning (19). He qualifies literal meaning (Wortlaut) as of outstanding importance in legal methodology, being the starting point of interpretation and a decisive element in binding judicial decisions to legal statutes. The boundaries of literal meaning demarcate the limits between interpretation of the law and law-making (Rechtsfortbildung). The problem of how to determine literal meaning is regarded as of crucial importance for the legitimacy and objectivity of judicial decision-making (19, 286) and as connecting legal theory not only with the philosophy of language but also with the problem of objective truth (33). Klatt holds that judicial decisions may, given certain conditions, be qualified as objective, the foundation for this being an objective semantics (34).

The first chapter discusses the controversy on the boundaries of literal meaning regarding legal methodology. The central problem is the issue of the structure and cognition of meaning. Four positions of current German legal methodology are discussed, firstly, the hermeneutic position, starting with the canones of interpretation suggested by Friedrich Carl von Savigny and ending up with the “new
hermeneutic” in the line of Gadamer (49 pp.), secondly, the analytical school represented by Koch, Rüßmann, Herberger and Alexy (62 pp.), thirdly, doctrines favouring subjective interpretation which focus on legislative intention and play down the relevance of literal meaning of statutes (73 pp.), and fourthly, the “Strukturierende Rechtslehre” of Friedrich Müller which denies that literal meaning can limit legal interpretation (82 pp.). The latter is the main target of Klatt’s argument defending the possibility and relevance of boundaries of literal meaning (103 pp.). He convincingly demonstrates not only its closeness to the “new”, ontological hermeneutic, but also its circularity and inconsistency. Finally, he identifies three problems of the boundaries of literal meaning, that of the distinction of clear and unclear cases, that of the empirical identifiability of the meaning of norms, and that of the objectivity of the meaning of norms within the language game of legal interprets (111).

The second chapter directly addresses problems of the philosophy of language and develops the thesis that meaning must be normative as well as objective in the sense of referring to objects which exist independently from the spectator, and in the sense of intersubjective validity. Klatt defends this thesis against the meaning scepticism of Quine and Kripke, relying mainly on the normativism of Robert Brandom’s philosophy of language, as explained in “Making It Explicit”. The main issues are how to understand the normativity of language and, how to account for the intuition that knowledge of the world figures among the criteria of the correct use of language. The latter aspect is also linked to the issue of the relation between linguistic meaning and intersubjectively shared forms of life (38). The paradox of literal meaning is described as the question of how it is possible that a linguistic practice is subject to norms which it itself develops. Klatt also addresses the view that after Wittgenstein a theory of meaning could not assume objectivity and normativity. Language could be guided by rules of a community or by its reference, but as rules of a community are not fixed they could not be set against a linguistic practice. Against that, Klatt suggests an integrated theory of meaning, based as well on a pragmatic theory of meaning (Gebrauchstheorie) and acknowledging normativity and objectivity (38). More precisely, he distinguishes three dimensions of language, normativity, objectivity in the sense of reference and objectivity in the sense of intersubjective validity (cf. 215, 238, 259, 261; somewhat different 217).

Normativity is defined, according to his “general thesis of normativity”, as that one can distinguish intersubjectively valid between a correct and an incorrect use of concepts and propositions (123). What is required is semantic normativity, not any kind of criterion of the correct use of language. Semantic normativity must constitute semantic mistakes distinct from empirical mistakes, must rely on reasons