

**Maneuvering Strategically at Johnny Depp
and Amber Heard's Legal Case: Analyzing
Confrontation Stag**

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Abstract

This study utilizes strategic maneuvering at the confrontation stage of the Amber Heard and Johnny Depp legal case in a pragma-dialectical framework. Finding a balance between dialectical and rhetorical goals is the main objective. The goal is to satisfy the audience's expectations and adhere to the principles of critical discussion in order to achieve effectiveness and reasonableness during the confrontation stage. An eclectic model is used, incorporating ideas from McQuarrie and Mick (1996) and van Eemeren (2010), as well as van Eemeren and Houttossier's (2006) fair trial, which should be based on critical discourse. In the confrontation stage, the analysis finds a balance between reasonableness and effectiveness; in the argumentation stage, it finds recurrent violations of reasonableness. Limited use of presentational devices is also noted, and audience requests are consistently met at every level except the argumentation stage.

Key words: Critical discussion, effectiveness, pragma-dialectics, reasonableness, strategic maneuvering.

الخلاصة

تستخدم هذه الدراسة مناورة استراتيجية في مرحلة المواجهة في القضية القانونية ضمن إطار الدلالة الجدلية. يتمثل الهدف الرئيسي في إيجاد توازن بين الأهداف الجدلية والأهداف البلاغية. يهدف البحث إلى إرضاء توقعات الجمهور والالتزام بمبادئ المناقشة النقدية لتحقيق الفعالية والمعقولة خلال مرحلة المواجهة. يتم استخدام نموذج شامل، يدمج أفكاراً من ماكوارى وميك (١٩٩٦) وفان إيميرين (٢٠١٠)، بالإضافة إلى محاكمة فان إيميرين و هوتوسر العادلة (٢٠٠٦)، التي يجب أن تستند إلى الخطاب النقدي. في مرحلة المواجهة، تجد الدراسة توازناً بين المعقولة والفعالية؛ في مرحلة الحجج، تجد انتهاكات متكررة للمعقولة. كما يتم ملاحظة الاستخدام المحدود للأدوات التقديمية، وتلبية مطالب الجمهور بشكل مستمر على كل مستوى باستثناء مرحلة الحجج.

1- Introduction

The pragma-dialectic approach to argumentation suggests that arguers are reasonably limited to resolving disagreements in order to fulfill dialectical goals. Participants in the conversation used strategic maneuvering to strike a balance between the two goals (van Eemeren, 2010). In order to be both rhetorically successful and dialectically reasonable, arguers, according to van Eemeren and Houtlosser (2002), select a topic that best supports their position, keep the audience in mind, and employ presentational devices that are most appropriate for their intended goal. Analyzing the passage from Johnny Depp and Amber Heard's opening statement in their defamation lawsuit demonstrates the application of strategic maneuvering at the confrontation stage in this particular case.

2- Critical Discussion

According to Van Eemeren and Houtlosser (2002), a critical discussion is an argumentative discourse model that aims to settle a disagreement by deciding whether to accept or reject the opposing points of view (p. 23). A critical discussion goes through four stages, according to the pragma-dialectical ideal model: the "confrontation stage," "opening stage," "argumentation stage," and "concluding stage."

2.1 The critical discussion's stages

- 1) The Confrontation Stage: Determining the nature of the disagreement in question is the goal of the confrontation stage of a critical discussion. According to Van Eemeren et al. (2007), it is crucial to be explicit about the points of contention and the kinds of criticism the protagonist will encounter.
- 2) The Opening Stage: The protagonist is expected to accept the commitment in order to support the viewpoint on the issue, whereas the antagonist expects the commitment to fundamentally respond to this point of view. The protagonist's resistance during the opening discussion remains implicit in many situations (Van Eemeren and Grootendorst, 2004, pp. 60-1).
- 3) The Argumentation Stage: According to van Eemeren and Grootendorst (2004, p. 61), the standpoint's protagonist advances arguments at this stage that systematically seek to refute the antagonist's objection. As they refute and criticize the other participant's standpoint, each person makes their case to support their own (Walton, 2008, p. 9).

4) The Concluding Stage: At this stage, a difference of opinion has been totally settled (Walton, 2008, p. 10). Practically speaking, one of the participants always ends the discussion. However, no resolution is achieved if this conclusion fails to convince the opposite party (van Eemeren & Grootendorst, 2004, pp. 61-26).

3- Strategic maneuvering

Strategic maneuvering is a concept that can be applied when it's necessary to achieve a balance between a resolution-minded dialectical objective and the rhetorical objective of having one's own position recognized, according to Houtlosser and van Eemeren (2000, p. 3). Van Eemeren and Houtlosser (2002, p. 39) define strategic maneuver as an arguer's endeavor to balance dialectical reasonableness and rhetorical efficacy in their argumentation speech.

3.1 Reasonableness

The pragma-dialectical of argumentation states that rules pertaining to critical discussions signify the requirements that must be upheld in argumentative discourse. Van Eemeren and Grootendorst's guidelines for a critical debate are as follows (van Eemeren et al., 2002, pp. 36–109):

- Rule 1: Parties must not impede one another from advancing or confronting one another's standpoint.
- Rule 2: A party is required to defend its position if the opposing party requests it.
- Rule 3: A party's attack on an opposing viewpoint must correspond to the standpoint that the opposing party has actually presented.

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- Rule 4: A party may only defend his standpoint by introducing arguments related to that standpoint.
- Rule 5: A party may not propose as a false premise something that the other party or he himself has left implicit.
- Rule 6: A party may neither misrepresent a premise as an accepted starting point nor deny that it is an accepted starting point.
- Rule 7: A party may only use arguments that are logically valid or capable of being validated by making explicit one or more unstated premises in his argumentation.
- Rule 8: A party may not consider a standpoint to be persuasively defended if it is not supported by an adequate and properly applied argumentation scheme.
- Rule 9: If a standpoint is effectively defended, the party who advanced it must retract it, and if the standpoint is successfully defended, the opposing party must retract its doubts about the standpoint.
- Rule 10: A party must not use formulations that are inadequately clear or confusingly equivocal, and he must interpret the formulations of the other party with the utmost care and accuracy.

3.2 Effectiveness

Studies have indicated that the rhetorical appeal of a strategic maneuver determines how effective it is. Presenting this perspective, van Eemeren and

Houtlosser (2002, 2006, 2009) suggest that it could be too soon to adopt a systematic approach.

3.2.1 Aspects of strategic maneuvering

3.2.1.1 Topical potential

When examining the rhetorical appeal of strategic maneuvering, this is the first factor taken into account. It entails selecting materials among those that are available according to what the arguer believes will best suit their own interests, as Tindale (2006, p. 449) explains.

3.2.1.2 Audience demand

The validity of an argument is determined by how well it serves its intended audience, which can be either a "universal" audience, which is composed of rational people, or a "particular" audience, which is composed of one person or a specific group (van Eemeren et al., 2014, p. 31).

3.2.1.3 Presentational device

The third and last of these are presentational devices. It includes "the phrasing and stylistic framing of the moves should be systematically attuned to their discursive effectiveness," according to Van Eemeren and Houtloss (2002, p. 140). Rhetorical figures of speech are categorized using McQuarrie and Mick's (1996, p. 426) methodology and trope classification. Schemes cover repetition and reversal, while tropes cover substitution and instability. Metonymy, ellipsis, epanorthosis, rhetorical questions, and pragmatic hyperbole are examples of substitution. Examples of destabilization include metaphor, simile, pun, irony, and paradox.

4. Derailments of strategic maneuvering: fallacies

Van Eemeren and Houtlosser (2002, p. 133) stress that when reasonableness or effectiveness takes precedence over the other, strategic maneuvering is considered "derailed." This derailment happens "when a rule for a critical discussion has been violated in the discourse" (2002, p. 134). Van Eemeren et al. 's (2002, pp. 109-54) pragma-dialectical analysis of fallacies stands out as their significant work. Van Eemeren et al. (2002, pp. 109–38) state that there are various ways to violate the aforementioned rules (*cf.* 3.1). Two primary methods are employed to violate Rule 1. The first one is imposing limitations on the possible standpoints or doubts that may be expressed. The second one constricting a party's freedom to take action. Similarly, there are two key strategies for violating Rule 2. Firstly, shifting the burden of proof onto the person criticizing a standpoint to avoid the responsibility of defending a standpoint: "You first prove that it isn't so" (2002, p. 114). Secondly, presenting the standpoint as self-evident to evade the burden of proof, prevents antagonists from expressing their doubts and leads to a sense of being overwhelmed (van Eemeren et al., 2002, p. 116).

Violations of Rule 3 involve presenting a standpoint that makes it difficult to defend. Argumentation that is irrelevant or non-argumental is a violation of Rule 4. In non-argumentation, the target audience's feelings, attitudes, or prejudices are exploited. In the second argument, a different perspective from the one that started the argument is defended (2002, p. 120). Both the antagonist and the protagonist are able to break Rule 5. While the latter commits the fallacy of rejecting an underlying premise or of denying an unexpressed premise, the former commits the fallacy of exaggerating what has not been expressed. When a party misrepresents a premise as part of the common starting points or disputes a premise that actually is part of the

starting points, Rule 6 is violated. When a protagonist uses an inappropriate argument scheme or implements a scheme incorrectly, Rule 7 is violated. There are two ways in which Rule 8 may be violated. The first argument cannot be proven to be true even if all implicit information is disclosed due to flawed reasoning. The second one attributes to each of its constituent parts a quality found in the whole, and vice versa.

The protagonist is required to abandon that position if they are unable to persuade the opponent through their own argument and provide a compelling defense of their position, which is the main reason for the Rule 9 violation. When one side utilizes evasive or ambiguous language to advance the discourse in their advantage, Rule 10 is violated through the fallacy of ambiguity (van Eemeren et al., 2002, pp. 36-109). To sum up, legal reasoning relies heavily on strategic maneuvering in order to resolve conflicts and reach a decision. One example of how legal argumentation can be used to support claims and settle disputes is the Depp and Heard case.

4- Legal argumentation in pragma-dialectical theory

According to van Eemeren and Houtlosser (2002), in the area of strategic maneuvering, the plaintiff and defendant are the parties to a dispute that work toward achieving particular goals in order to optimize the advantages of their respective positions. This study uses the Depp v. Heard case as an illustration of a legal case that may be examined to comprehend strategic maneuvering. Depp launched a \$50 million lawsuit against Heard in the latest Depp and Heard case, the definition trial in 2022, in response to an opinion piece she authored for the Washington Post. Heard filed a \$100 million lawsuit in retaliation against Depp, claiming that the actor's prior

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lawyer had defamed her by downplaying her claims of abuse during their 2016 divorce, which was settled out-of-court (Puente, 2022).

5. Data description and analysis

5.1 Data

This study looks into the defamation trial between Johnny Depp and Amber Heard in Fairfax County, Virginia, which took place on April 11, 2022. The topic of conversation was a noteworthy event in news and entertainment that attracted a lot of attention from around the world. Insider Magazine journalist Collman (2022) wrote about this event, emphasizing how it intersects with the country's fascination with celebrities. As such, this is a significant chance to study tactical approaches. The trial's transcription was turned into a Portable Document Format (PDF) and made publicly accessible on the Fairfax County Circuit Court in Virginia's official website² “<https://www.fairfaxcounty.gov/circuit/high-profile-case>”, as part of an internet-based data collection method. The present analysis is restricted to a pair of excerpts that portray Depp, the plaintiff, and Heard, the defendant.

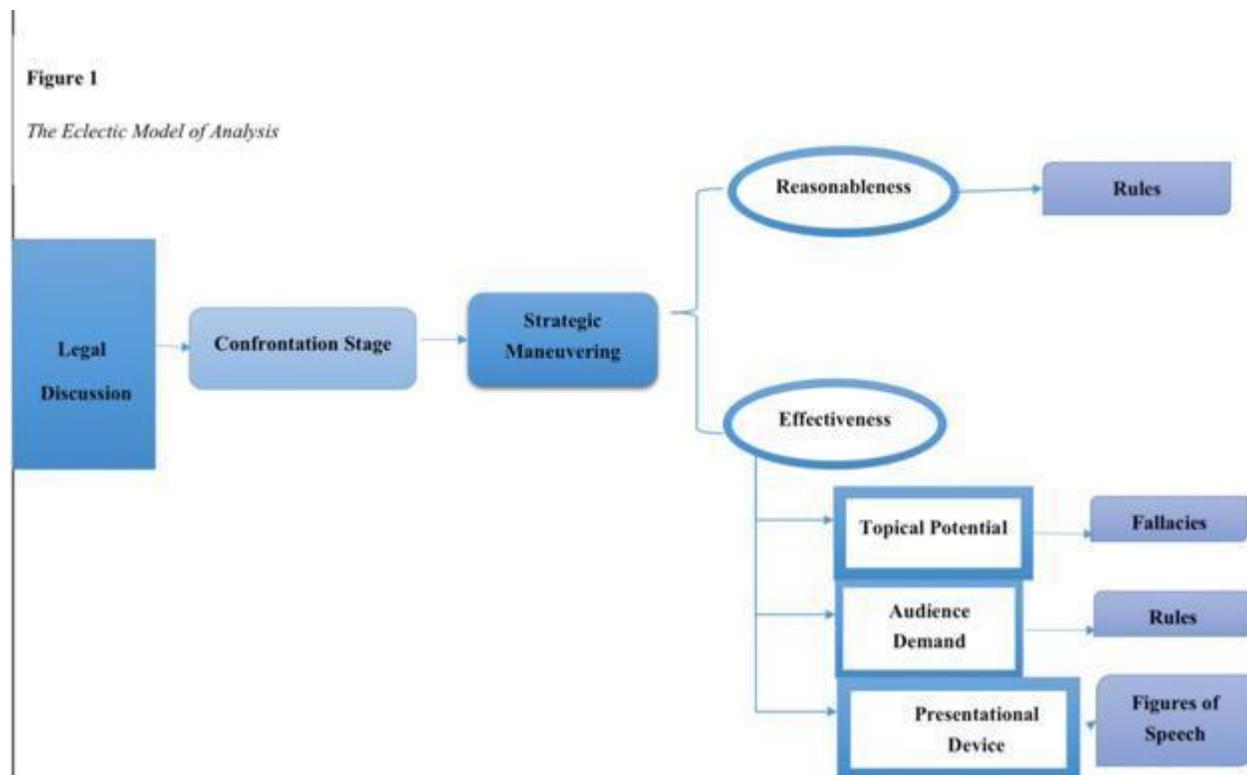
5.2 Model of analysis

This study's eclectic model might be seen as a critical discussion because of van Eemeren. The eclectic model of the current study is inspired by the compelling discourse known as "critical discussion," which is the cornerstone of a fair trial. Accordingly, the trial under investigation is viewed as an important dialogue or legal discussion (van Eemeren, F. H., & Houtlosser, 2006, p. 384). Additionally, the focus of this eclectic approach is van Eemeren (2010). The figures of speech by McQuarrie

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and Mick (1996) are also included in this eclectic model. Additionally, a qualitative research methodology is used in this study.

Moreover, the guidelines for critical discussion are seen as part of audience demand. A figure of speech used by the arguer is considered a presentational device and constitutes the third element of strategic maneuvering. According to van Eemeren (2010, p. 122), Fahnestock employs presentational devices—a type of linguistic construction known as figures of speech—for argumentative objectives. It has been established that all three elements—topical potential, audience demand, and presentational device—are necessary for successfully settling a trial debate in order to guarantee a thorough data analysis. The eclectic way of assessing strategic maneuvering in the confrontation stage of Depp and Heard's lawsuit is embodied in *Figure 1*.



5.3 Analysis

Extract 1

- “Mr. Chew: Some of you may recognize Mr. Depp from seeing him portray characters such as Edward Scissor hands or Captain Jack Sparrow from the "Pirates of the Caribbean" movies. For nearly 30 years, Mr. Depp built a reputation as **one of the most talented actors in Hollywood**, a respected artist whose name was associated with success at the box office. ***Today, his name is associated with a lie, a false statement uttered by his former wife, the defendant, Amber Heard, that falsely cast Mr. Depp, falsely and unfairly characterized, cast Mr. Depp as a villain, a man who would violently abuse a woman...***
- Mr. Rottenborn: you're going to hear, in this trial, Mr. Depp's team is going to make it about trying to distract you from that very simple question. Mr. Depp's team is going to try to turn this case into a ***soap opera***. Why? I'm not really sure, because the evidence isn't pretty for Mr. Depp. It's not. You're going to see ***who the real Johnny Depp is, behind the red carpets, behind the fame, behind the money, behind the pirate costumes***. You're going to see who that man really is. Amber is going to tell you about it. You're going to hear who he really is from other witnesses, and you're going to hear who he really is in his own words, **in the vile, graphic, terrible messages** that he wrote about Amber and the ways he used to describe Amber and what he wanted to do to Amber from the earliest days that they were dating, through their marriage, and after their marriage. You're going to hear about that”.

(Reporting Depp v. Heard, 2022, Tue 12th of April)

The context

The context of this is that Mr. Chew, Depp's attorney, is trying to create a positive image of Depp and a negative image of Heard. Mr. Rottenborn Heard's attorney is trying to do the opposite. Mr. Chew's statement introduces Depp as a well-known actor with a successful career in Hollywood. In response, Mr.

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Rottenborn indicates that Depp's legal team will attempt to distract the jury from the main question and turn the case into a soap opera.

1. **Confrontation stage**

At this stage, Mr. Chew and Mr. Rottenborn present contrasting arguments and engage in a direct confrontation. Mr. Chew, representing Depp's team, begins by highlighting Depp's successful career and reputation as a talented actor. In contrast, Mr. Rottenborn, representing the opposing side, counters Mr. Chew's argument by suggesting that Depp's team will attempt to distract the jury and turn the case into a soap opera.

First: Reasonableness

Both Mr. Chew and Mr. Rottenborn employ strategic maneuvering to achieve their persuasive goals while adhering to the rules of critical discussion. So, there is no violation of rules at this stage; both parties aim to achieve effectiveness while maintaining reasonableness within the trial context.

Second: Effectiveness

a. **Topical potential**

The topical potential of strategic maneuvering in the confrontation stage of a critical discussion is to address the difference of opinion between the interlocutors. However, if this is not done in a way that is consistent with the rules of critical discussion, it can lead to fallacies as a way to be more affected. In this maneuver, in this aspect, no fallacies have been used.

b. **Audience demand**

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Mr. Chew appeals to the audience's sense of reasonableness, as no rules have been violated. Mr. Rottenborn also appeals to the audience's curiosity by promising to reveal who Depp really is behind his public persona.

c. Presentational device

One such device occurs when the protagonist, Mr. Chew, portrays Depp as a respected and successful actor whose reputation has been unfairly tarnished by false accusations made by his former wife, Heard. He uses Hyperbole (*exaggeration*), which is a figure of speech that seems like an overstatement and is defined as a deliberate positive exaggeration intended to increase impact or draw attention to Depp's name as "*one of the most talented actors in Hollywood.*" It clearly appears as a way to produce his standpoint with the rhetorical choice to persuade the audience to be by his side. Alternatively.

2. Opening stage

In this stage, Mr. Chew, as the protagonist, presents his opening statement by highlighting Depp's successful career and reputation as a talented actor. As opposed to that, Mr. Rottenborn, as the antagonist, presents in his opening statement that Depp's team will attempt to distract the audience from the main question and turn the case into a soap opera.

First: Reasonableness

In the opening stage, the rules of reasonableness focus on ensuring that both sides have an equal opportunity to present their cases. There are no violations of these rules because both sides attempt to adhere to the rules of reasonableness in their opening statements.

Second: Effectiveness

a. Topical potential

It is represented by a fallacy. Since reasonableness is maintained in this maneuver, no fallacies have been committed.

b. Audience demand

Both Mr. Chew and Mr. Rottenborn try to adapt their argumentative moves to the expectations and preferences of their intended audience (jury and judge).

c. Presentational device

No presentational devices have been used in this stage.

3. Argumentation stage

In this stage, Mr. Chew and Mr. Rottenborn have the opportunity to fully develop and defend their positions. Mr. Chew strategically maneuvers by presenting arguments that defend Depp's reputation. In comparison, Mr. Rottenborn engages in strategic maneuvering by anticipating Depp's defense strategy and attempting to undermine it. He suggests that Depp's team will try to distract the audience and turn the case into a soap opera.

First: Reasonableness

However, the extent to which their strategic maneuvering is reasonable is questionable since there are several violations of the rules of reasonableness of strategic maneuvering, including *the violation of Rule 1 (Freedom Rule)*. Mr. Chew's strategic maneuvering is particularly problematic because he is using it to attack

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Heard's credibility. This violates Rule 1 of critical discussion, "***Today, his name is associated with a lie... abuse a woman,***" which states that the interlocutors should avoid making personal attacks. Also, in violation of Rule 4 (Relevance Rule), both Mr. Chew and Mr. Rottenborn violate Rule 4. Mr. Chew appeals to the audience's emotions by characterizing Depp as a victim of false accusations: "***Today, his name is associated with a lie.***" Additionally, Mr. Rottenborn's statement contains an example of irrelevant argumentation by appealing to the audience's fear by suggesting that the evidence against Depp is "***vile, graphic, terrible,***".

In violation of Rule 3 (the Standpoint Rule), Mr. Rottenborn violates Rule 3. He suggests that Depp's team will try to distract from the issue at hand and turn the case into a soap opera: "***very simple question... turn the case into a soap opera.***" This is an example of a straw man fallacy. **Second: Effectiveness**

a. Topical potential

The topical potential of strategic maneuvering is the best way for the arguers to present themselves to the intended audience more effectively. However, if it is not consistent with the rules of critical discussion, it can lead to fallacies, which represent this aspect in this argumentation stage. Some fallacies occur in this aspect, such as *ad hominem fallacy*. Both Mr. Chew and Mr. Rottenborn engage in personal attacks against each other instead of addressing the arguments directly. The *Straw Man fallacy* it occurs when Mr. Rottenborn indicates that Depp's team is trying to distract the audience from a "***very simple question... turn the case into a soap opera***". *Non-argumentation (appeals to emotion)*: both Mr. Chew and Mr. Rottenborn use emotionally charged language to sway the audience's opinion. Mr. Chew characterizes Depp as a victim of false accusations: "***Today, his name is associated***

with a lie", while Mr. Rottenborn suggests that the evidence against Depp is "*vile, graphic, terrible*."

b. Audience demand

Mr. Chew and Mr. Rottenborn violated the audience's demand for openness by committing a fallacy of non-argumentation in strategic maneuvering, in which the arguers attempted to persuade the audience to adopt a particular viewpoint. Another fallacy is the straw man fallacy, in which Mr. Rottenborn asserts that Depp's legal team will attempt to transform the case into a soap opera, which is unrelated to the matter under consideration.

c. Presentational device

This maneuver makes use of four figures of speech, which were mentioned earlier (cf. 2.6.2.3), *hyperbole (exaggeration)*, which appears as an overstatement and is defined as a deliberate positive exaggeration intended to increase impact or draw attention to Depp's name as "*one of the most talented actors in Hollywood*". In contrast, Mr. Rottenborn uses hyperbole twice, the first time when he states, "*behind the red carpets, behind the fame, behind the money, behind the pirate costumes*". He uses this hyperbole to suggest a hidden, darker side to Depp's persona. "*in the vile, graphic, terrible messages*" is a hyperbolic description that intensifies the harmful nature of the messages, emphasizing the severity and impact that Depp uses against Heard to evoke strong emotions and creating a vivid image of the alleged misconduct by Depp.

Simile, Mr. Chew employs a simile by using "as" in "Mr. Depp as a villain" to illustrate how Heard defamed Depp's image in the media as a man who abuses

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women. *Metaphor*: In this extract, Mr. Rottenborn uses a metaphor when he says that Depp's team is going to try to turn the case into a "soap opera", implying that they will try to distract the audience from the real issue. *Repetition*, Mr. Rottenborn in "behind the red carpets, behind the fame, behind the money, behind the pirate costumes" repeat "behind" three times in the same sentence.

In this extract, there is no settlement of the difference of view due to the persistent violation of the rules by both parties; hence, the parties will not reach an agreement.

5. 4 Discussion of results

Considering the data analysis, it is possible to discuss the following points:

1. Since the disputants are limited to the same critical discussion guidelines as in the opening stage, reasonableness is maintained during the confrontation stage. Mr. Rotten Borne and Mr. Chew are in breach of Rules 1, 3, and 4. This illustrates how well they overruled reasonableness in order to accomplish their goal of making their argument and ending the dispute.
2. The topical potential, audience demand, and presentational device are all maintained in the confrontation and opening stages of effectiveness, but during the argumentation stage, there was a rule violation.

6. Conclusion

The following conclusions are drawn from the analysis:

1. Successful strategic maneuvering maintains a balance between effectiveness and reasonableness during the confrontation's opening. But it derails at the

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argumentation stage when it asks for effectiveness over reasonableness, violating the rules that directly impact the audience (the jury and judge).

2. Mr. Chew challenges Mr. Rottenborn's opinions in an effective way to persuade the audience by drawing a judgment based on the information available about Depp's prior standing as a gifted actor and suggesting that his current affiliation with unfounded allegations has unfairly painted him in a negative light.

3. It concludes that the eclectic model is both useful and sufficient for analyzing the strategic maneuvering in the selected excerpt from Depp and Heard's court case.

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