Strategic Maneuvering at the Confrontation Stage in the Depp versus Heard Legal Case

DOI: https://doi.org/10.33806/ijaes.v25i2.534

Mayasa Kadhim Alsalehi and Rajaa' Mardaan Flayih
The University of Al-Qadisiyah, Iraq

Received: 8.1.2024 Accepted: 8.12.2024 Published Online: 12.12.2024

Abstract: Strategic maneuvering, an extension of pragma-dialectics, has three dimensions: topical potential, audience demands, and presentational devices. This study focuses on strategic maneuvering in the pragma-dialectical framework, specifically at the confrontation stage, to frame arguments within a legal context. The primary objective is to analyze how differences of opinion manifest as resistance and non-acceptance of viewpoints, aiming to achieve a balance between dialectical and rhetorical goals. The study centers on the arguments presented by Johnny Depp and Amber Heard's attorneys during the opening statement of the defamation case. The main objectives are to attain reasonableness and effectiveness during the confrontation stage, while adhering to the rules of critical discussion and considering the expectations of the jury. An eclectic model is employed, drawing on Eemeren and Houtlosser's fair trial (2006), which is grounded in critical discourse, as well as insights from Eemeren (2010), and McQuarrie and Mick (1996). This analysis revealed a balance between reasonableness and effectiveness during the confrontation, but also highlighted recurring violations of reasonableness during the argumentation stage. Furthermore, audience demands are consistently addressed in all stages except that of argumentation, and limited utilization of presentational techniques is observed.

Keywords: critical discussion, effectiveness, pragma-dialectics, reasonableness, strategic maneuvering

1. Introduction

Arguers are reasonably restricted to settling differences of opinion to satisfy dialectical aims, according to the pragma-dialectic approach to argumentation. Given that argumentative discourse involves both communicative and interactional activities to reach a reasonable resolution, it is essential both to recognize the complexity of the idea and to examine real-world examples of argumentative discussion. This can be accomplished by outlining arguments that show an unbiased judge why the arguer's point of view is reasonable. Arguers also have a rhetorical stake in effectively settling disputes. To balance the two aims, discussants employ strategic maneuvering (Eemeren 2010).

According to Eemeren (2017), arguers choose a topic most supportive of their position, consider the audience, and use those presentational techniques most suited

to their purpose; this enables them to remain both dialectically reasonable and rhetorically successful. In contrast to casual conversation, participants' perspectives on speaking may be expressed more forcefully in certain communication activities, such as trials, depending on the preference (Eemeren 2017: 3–22). In this way, presenters try to win support by persuading the audience reasonably and effectively. An extract from the opening statement in the Johnny Depp and Amber Heard defamation case (cf. Section 5.1) illustrates the use of such strategic maneuvering, which, in this study, is investigated to determine how a specific presentational device is used to meet audience expectations. In so doing, the influence of persuasive manifestations and rhetorical effects upon the audience are revealed. To achieve these objectives, an eclectic model is employed. Furthermore, a theoretical framework of pragma-dialectics is utilized for the analysis and interpretation of argumentative discourse, with a specific focus on the process of reconstruction. The primary tools employed within this framework are centered around the model of a critical discussion.

2. Critical discussion

Eemeren and Houtlosser (2002: 23) define a critical discussion as a model of argumentative discourse that seeks to resolve a difference of opinion by determining whether the opposing points of view should be accepted or rejected. As an alternative, it is a controlled discussion in which a disagreement about a particular idea is an unresolved problem. According to the pragma-dialectical ideal model, a critical discussion has four stages: confrontation, opening, argumentation, and concluding. Although all four stages need not be explicitly undertaken to resolve a disagreement, it is impossible to resolve it reasonably unless each stage of the resolution process has been appropriately addressed (Eemeren, Grootendorst and Henkemans 2002).

2.1 The stages of critical discussion

(1) The confrontation stage

The confrontation stage of a critical discussion establishes the nature of the disagreement at issue. It is essential to be clear about the areas of dispute and the type of criticism the protagonist must face. According to Eemeren, it is essential to know the points of conflict and the kinds of criticism the protagonist will face. At this stage, reluctance to accept a particular viewpoint shows a possible difference in opinions (Eemeren, Houtlosser and Henkemans 2007; Eemeren 2018: 36).

(2) The opening stage

In the opening discussion, the antagonist anticipates that the commitment will fundamentally respond to this point of view and the protagonist's resistance; in contrast, the protagonist is expected to embrace the commitment to defend their viewpoint on the issue. The assumption that the required common ground already exists, and that each participant will abide by the material and procedural starting

points, causes the opening stage to remain implicit in many instances (Eemeren and Grootendorst 2004: 60–1; Eemeren and Houtlosser 1999: 480–1).

(3) The argumentation stage

The purpose of the argumentation stage is to examine critically the justification of the viewpoints presented by both parties during the confrontation stage. Each participant presents their case to support their position by challenging and criticizing the other's viewpoint (Walton 2007: 26). In this step, a protagonist makes arguments which systematically attempt to disprove the antagonist's objection. The former defends their stance by producing justifications to refute the antagonist's inquiries and other fundamental reactions (Eemeren 2018: 45– 6).

(4) The concluding stage

It is in this stage that a disagreement of opinion is fully resolved. In practice, one of the participants usually ends the argument. Following this, the winner and loser—the parties with the strongest and weakest arguments, respectively—are determined (Walton and Macagno 2008: 10). However, according to Eemeren and Grootendorst (2004: 61–2), no resolution is reached if the conclusion fails to persuade the opposing participant. It thus becomes clear that a critical discussion is not limited to reasonableness, since arguers desire the outcome to be to their own benefit. This makes it evident that the dialectical split must also be extended to include rhetoric.

3. Strategic maneuvering

A strategic maneuver refers to an arguer's attempt to reconcile rhetorical efficacy with dialectical reasonableness in their argumentative speech. Strategic maneuvering rules are used when there is a need to balance a resolution-minded dialectical objective with the rhetorical aim of having one's position recognized. In this instance, the parties can fulfill their dialectical commitments and still achieve their rhetorical aims; this is the definition of strategic maneuvering (Eemeren and Houtlosser 2000: 3; Eemeren and Houtlosser 2002: 39). Eemeren (2010: 40) indicates that including a rhetorical dimension within the dialectical one requires arguers to balance reasonableness and effectiveness in every argumentation move. He explains that this balance indicates the "argumentative situation" for which strategic maneuvering has developed. Since strategic maneuvering is a combination of reasonableness and effectiveness, it must address both of these components if a thorough investigation of the concept is to be carried out.

3.1 Reasonableness

According to the pragma-dialectical of argumentation, the rules that must be maintained in argumentative discourse are those of critical discussion, allowing the performance of speech actions in the various stages. The following are Eemeren and Grootendorst's rules for such a discussion (Eemeren et al. 2002: 36–109). In Rule 1, participants must not prevent one another from advancing points of view or

posing questions about them; this rule is intended to ensure that standpoints can be openly promoted. Parties must not prevent each other from advancing or challenging each other's standpoint (the Freedom Rule). For Rule 2, according to the Responsibility to Defend Rule, a participant who submits a perspective is obligated to defend it, if the other party requests such as defense (the Burden of Proof Rule). Throughout Rule 3, a participant's attack on a point of view must be connected to the standpoint advanced by the other participant (the Standpoint Rule). In Rule 4, a participant may guard their perspective only by advancing the argumentation of that point of view. Consequently, viewpoints are protected by logos and not ethos or tenderness. A party may only defend their standpoint by introducing arguments related to that standpoint (the Relevance Rule).

For Rule 5, participants may not make misleading assumptions about implied statements offered by the other party or by themselves. That is, a party may not falsely offer as a premise something that the other party has left implicit or that they have left unstated (the Unexpressed Premise Rule). In Rule 6, the Starting Point Rule, also known as the Beginning Point Runs the Show, ensures that the agreed-upon starting points are utilized appropriately. A party may neither falsely portray a premise as an accepted starting point nor deny that a premise is an accepted starting point (the Starting Point Rule). Rule 7 requires determining whether the conclusion flows logically from the premises in circumstances where this is usually required. A party may only use arguments that are logically valid, or capable of being validated, by making explicit one or more unexpressed premises (the Validity Rule). Under Rule 8, a participant may not regard a standpoint as conclusively protected if the defense fails to establish a suitable argumentation plan that is appropriately related. A party may not consider a standpoint convincingly defended if it is not supported by an adequate, correctly applied argumentation scheme (the Argument Scheme Rule).

Under Rule 9, the conversation's conclusion can be determined in an adjusted way. If a standpoint is successfully defended, the party who advanced it must retract it and, if the standpoint is well supported, the opposing party must retract their doubt about the standpoint (the Closure Rule). Within Rule 10, participants aim to prevent errors caused by non-transparent, doubtful, or dubious facts and incorrect, sloppy, or biased translations. A party must not use insufficiently clear or confusingly ambiguous formulations, and they must interpret the other party's formulations as carefully and accurately as possible (the Usage Rule).

These ten rules are the pragma-dialectical equivalent of reasonableness. It is assumed that argumentators are reasonable if they establish a connection to these standards. If this is not the case, argumentators will be compelled to employ a fallacy based on the number of rules violated.

3.2 Effectiveness

Research has shown that the effectiveness of a strategic maneuver is contingent upon its rhetorical appeal. According to Eemeren and Houtlosser's presentations of

this idea (2002, 2006, 2009), it might be too soon to adopt a systematic approach. They contend that it is sufficient to recognize that rhetoric, in its expanded form, focuses on the persuasive tactics outlined before, without delving into the pragma-dialectical interpretation of rhetoric, as they have already done with the concept of reasonableness.

3.2.1 Aspects of strategic maneuvering

According to Eemeren (2010), the rhetorical dimension is divided into three interrelated aspects: topic potential, audience demand, and presentational device. Topical potential is the first aspect considered when analyzing the rhetorical appeal of strategic maneuvering. It involves, as Tindale (2006: 449) argues, choosing materials from those available based on what the arguer believes will best serve their interests. In other words, this element indicates the process of customizing the materials at hand by selecting those which are apparently most favorable in accordance with one's own goals. Regarding case-specificity, topical potential differs from case to case (e.g., civil or criminal, or even within categories like these). Similarly, this characteristic varies from one stage, such as confrontation, to another (e.g., opening). The second aspect is audience demand. An argument's effectiveness concerning its target audience determines its validity; this audience may be a "universal" one that represents rationality, or a "particular" one comprised of a single person or particular group (Eemeren et al. 2014: 31). Since the audience embodies reasonableness, rules governing critical speech mirror the audience's expectations. According to Walton (2002: 11), the jury and judge may be the primary audience during a court trial, as in the Depp and Heard case considered in this study. The final rhetorical aspect of strategic maneuvering is a presentational device. Eemeren and Houtlosser (2002: 140) define presentational devices as, "The phrasing and stylistic framing of the moves [being] systematically attuned to their discursive effectiveness".

The classification of schemes and tropes by McQuarrie and Mick (1996: 426) is used to classify rhetorical figures of speech. Repetition and reversal are sub-classifications of schemes, whereas substitution and destabilization are sub-classifications of tropes, both of which fall under the trope umbrella. Substitution is illustrated by pragmatic hyperbole, ellipsis, epanorthosis, rhetorical questions, and metonymy. Destabilization examples include metaphor, pun, irony, and paradox.

The substitution of tropes, according to McQuarrie and Mick (1996: 432), includes, "The rhetorical operation of substitution selects an expression that requires an adjustment by the message recipient to grasp the intended content". For these authors, this modification involves a shift across different aspects, including exaggerated or understated statements (such as hyperbole). Cruse (2006: 80) refers to the magnified aspect of hyperbole as overstatement and defines it as a deliberate positive or negative exaggeration to increase impact or attract attention, as in, "The traffic was moving at a snail's pace". Te presence or absence of certain expressive elements, such as ellipsis, refers to the deletion of certain components of a statement

required for its comprehension; despite the deletion, an audience can still understand what the deleted portions are, as in:

a. "Bill should collect butterflies. Jill should, too".

b. "Bill should collect butterflies. Jill should collect butterflies, too" (Merchant 2010: 143).

The relationship between the parts and the whole in terms of assertiveness (like metonymy) is defined by Yule (2010: 21) as, "a word used in place of another with which it is closely connected in everyday experience (e.g., He drank the whole bottle (=liquid))". The strength or weakness of assertive force (including rhetorical questions) is marked as a question phonologically and syntactically. However, its answer does not carry the same weight as the answer to the real question, for instance, in "Don't you have something better to do?" (McQuarrie and Mick 1996: 432).

With destabilization tropes, the primary objective is the purposeful use of "an expression such that the initial context renders its meaning indeterminate". These tropes include categories such as metaphor, which McGlone (2007: 2) defines as "a word or phrase used to describe something it does not denote, e.g., 'This journal is a gem'". A simile is a comparison between two dissimilar things that have something in common, for instance, "Peter is like a lion" (Cruse 2006:165). In comparison, Bussmann (1996: 968) defines pun as a wordplay that incorporates repletion by omission: "the coupling of words that sound similar but which are very different semantically and etymologically, e.g., Is life worth living? That depends on the liver". In this example, the word "liver," which has two meanings, serves as a pun: a human organ or a person who engages in the act of surviving. It is essential to determine the most critical aspect of this pragmatic approach. In their attempts to define irony, McQuarrie and Mick (1996: 431) explain it as "a statement that means the opposite of what is said". The last destabilizing trope, paradox, is "a statement that cannot be true as provided but can be rendered true through reinterpretation" (McQuarrie and Mick 1996: 433). The same authors say, "This photograph was taken by somebody who forgot to bring their camera". They note that this statement is contradictory because a camera is required for photography, according to the definition. The potential for meaning in a given subject matter can be realized by reinterpreting certain aspects. In this case, the concept of a disposable camera that can be bought immediately is being assimilated (McQuarrie and Mick 1996: 433).

In summary, the use of presentational choices as a manifestation of strategic maneuvering refers to utilizing pragmatic strategies as a variation to steer the discourse toward achieving specific communicative and interactional effects (Eemeren 2010: 119).

4. Derailments of strategic maneuvering: Fallacies

Eemeren and Houtlosser (2002: 133–134) emphasize that, when reasonableness overrules effectiveness, or vice versa, strategic maneuvering is said to be "derailed". Such derailments occur "when a rule for a critical discussion has been

violated in the discourse". The work of Eemeren et al. (2002: 109–54) on the pragma-dialectical analysis of fallacies is the most important of their many works. In their book, they analyze fallacies concisely and precisely, according to the ten rules previously mentioned, and state that there are different ways in which they can be violated (cf. Section 3.1). The two main ways used to violate Rule 1 are: setting restrictions on the possible standpoints or doubts that may be expressed; and, restricting a party's freedom to act. Likewise, two essential strategies for violating Rule 2 are: avoiding the responsibility of defending a standpoint by shifting the burden of proof onto the person criticizing it, e.g., "You first prove that it isn't so" (p. 114); and, presenting the standpoint as self-evident, as in "It is obvious that...", "Nobody in their right mind would deny that...". If successful, this ploy can prevent antagonists from expressing their doubts and instill a sense of being overwhelmed (p. 116).

Rule 3 is violated when presenting the standpoint "in a way that makes it difficult to defend, or even untenable or ridiculous", while Rule 4 violations take two forms: non-argumentation and irrelevant argumentation. Non-argumentation, Eemeren *et al*. explain, involves playing on the "emotions, sentiments, or biases of the intended audience" (p. 120). The second argument defends an opposing viewpoint to the one that initiated the dispute (p. 119). Rule 5 may be violated by both the antagonist and protagonist (cf. Section 2.6.1). The former commits the fallacy of magnifying what has not been expressed, while the latter does so by denying an unexpressed premise in the protagonist's defense, and by rejecting that an underlying premise exists. Rule 6 violations occur when a party falsely presents a premise as belonging to the common starting points or denies a premise that does belong to the starting points. A violation of Rule 7 entails a protagonist employing an argument scheme deemed improper or misusing a scheme. Rule 8 can be violated, first, by faulty reasoning which prevents the veracity of the first argument from being demonstrated, even when all implicit information is apparent. Second, it can be violated when assigning a characteristic of the whole to its separate components is accurate, and the reverse is also true. The main cause of a Rule 9 violation is that the protagonist must relinquish their stance if they cannot convince the adversary of their argument and convincingly defend their viewpoint. Rule 10 is violated via the fallacy of ambiguity, which occurs when a side uses evasive or ambiguous language to progress the conversation in their favor (Eemeren et al. 2002: 36–109).

Strategic maneuvering is, thus, a crucial component of legal argumentation, which aims to overcome disagreements and obtain a final verdict. The case of Depp v. Heard exemplifies how legal argumentation can be used to defend claims and resolve conflicts.

5. Legal argumentation in pragma-dialectical theory

Feteris (1999: 187) asserts that the pragma-dialectical theory developed by Eemeren and Grootendorst provides a theoretical framework for examining and assessing legal argumentation. A key benefit of adopting the pragma-dialectical

perspective is providing a comprehensive framework that facilitates the systematic justification of choices made during the analysis and evaluation process. This particular perspective regards legal discussions as formalized instances of argumentative discourse, wherein parties and judges endeavor to reconcile divergent viewpoints.

In strategic maneuvering, as clarified by Eemeren and Houtlosser (2002), the parties involved in a conflict, namely the plaintiff and defendant, strive to achieve specific objectives to maximize the benefits of their respective positions. One may raise the question of why legal argumentation serves as the initial point of inquiry, given that strategic maneuvering is the primary focus of the study. Bertea (2004: 466–470) assists in demonstrating the connection between legal argumentation and strategic maneuvering. Additionally, Feteris (1997: 335) indicates that argumentation is presented as a fundamental element within the legal domain, permeating all facets of the legal system. It includes asserting claims for acceptance, offering cases in court, rendering decisions, and even legislating specific rules. To understand strategic maneuvering in a legal case, that of Depp V. Heard will now be analyzed.

5.1 Depp vs. Heard

The legal case between Johnny Depp and Amber Heard was one of the most prominent entertainment stories and news events. Johnny Depp, an American actor, producer, director, sound impersonator, screenwriter, and musician, was born on June 9, 1963. He is well-known for his talent in the film and television domains. Depp's ex-wife, Amber Heard, was born in Texas on April 22, 1986. After a more than ten-year relationship, their marriage broke down, leading to a split in 2016. The couple fought in court over a 2018 Washington Post opinion piece written by Heard, in which she claimed to have been the victim of domestic abuse, without specifically naming Depp (Rosenblatt 2022). In the subsequent defamation trial in 2022, Depp filed a $50 million lawsuit against Heard over the piece she had written. In this piece, she accuses Depp of domestic abuse, a charge that he denies. The trial was conducted in Virginia, where Depp and Heard again came into conflict. Heard retaliated against Depp with a $100 million lawsuit, arguing that his previous attorney had maligned her by dismissing her allegations of violence during their 2016 divorce, which was settled out of court (Puente 2022). During the trial, the jury found that Heard's op-ed was written with genuine malice. As a result, Depp was granted $10 million in compensatory damages and $5 million in punitive damages in his slander lawsuit. Heard, however, received $2 million in compensatory damages from the jury and no punitive damages (Rosenblatt 2022).

6. Data description and analysis

6.1 Data

This research investigates the defamation trial of Johnny Depp and Amber Heard that occurred on April 11, 2022, between Johnny Depp and Amber Heard in Fairfax County, Virginia. Collman (2022), a journalist for *Insider Magazine*, wrote about

this event, highlighting its convergence with America's fascination with celebrities. Consequently, this event is a valuable opportunity for examining strategic maneuvers.

Data were gathered using an internet-based approach wherein the documentation from the trial transcript was converted into a PDF and made available for public access on the official website (https://www.fairfaxcounty.gov/circuit/high-profile-cases) of the Fairfax County Circuit Court in Virginia (Fairfax County Circuit Court, 2022). In this study, two extracts are examined which represent the plaintiff, Depp, and the defendant, Heard.

6.2 Model of analysis

The eclectic model used in this study, based on Eemeren's suggestion of adjudication as a third-party dispute resolution process, can be viewed as a critical discussion. Parties aim to resolve disputes reasonably by following rules, while judges determine right and wrong to promote a reasonable resolution. This approach shifts the parties' roles from persuasion to influencing the adjudicator. Furthermore, the foundation of a fair trial must be a convincing discourse known as "critical discussion", which has inspired the eclectic model of the present study. Consequently, the trial in this study can be seen as a key conversation known as a legal discussion (Eemeren and Houtlosser 2006: 384). This eclectic model also deals mainly with Eemeren's strategic maneuvering model (2010), which incorporates the four critical discussion stages; however, in this study, only the confrontation stage is explored. This eclectic model also includes McQuarrie and Mick's figures of speech (1996). Furthermore, this study adopts a qualitative research methodology.

In the relevant literature, it has been demonstrated that pragma-dialecticians have established ten rules of critical discussion to evaluate argumentative utterances; these rules constitute the most crucial aspect of strategic maneuvering, namely reasonableness. In comparison, effectiveness represents the second component of strategic maneuvering, which consists of three aspects. When the arguers violate these ten rules, fallacies occur.

This study examines any fallacies that arise as part of the topical potential. Eemeren (2010: 93–6) emphasized an essential characteristic of topical potential, namely its context-specificity, meaning that this aspect is subject to change from case to case and from one stage of a critical discussion to another; hence, context refers to two extremes: case and stage. Regarding case-specificity, topical potential differs from case to case (e.g., civil or criminal, or even differences within one category, civil or criminal). Similarly, this characteristic varies from one stage (such as confrontation) to another (e.g., opening).

Furthermore, the rules of critical discussion are considered a component of audience demand that can be applied to understand the dynamics between the primary audience (Judge and jury) and the argumentative strategies employed. A figure of speech represents a third aspect of strategic maneuvering that can help us

better understand how to analyze presentational choices and use language effectively in arguments in strategic maneuvering in the case under investigation.

It has been determined that all three aspects (topical potential, audience demand, and presentational device) are essential for effectively resolving a trial argument for ensuring a comprehensive data analysis. Figure 1 embodies the eclectic model of analyzing strategic maneuvering at the confrontation stage in Depp vs. Heard.

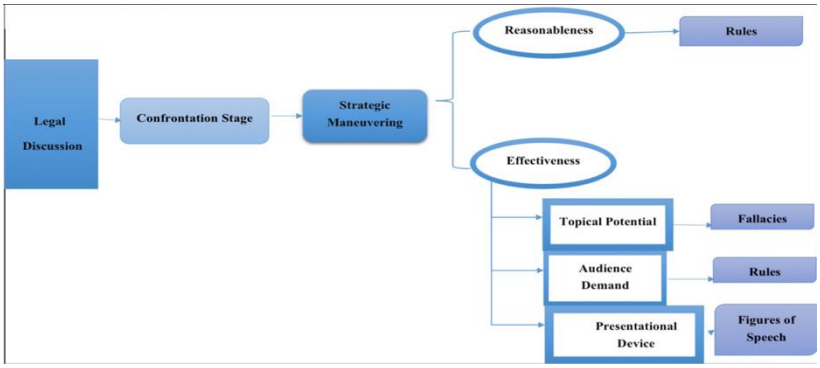

Fig. The eclectic model

6.3 Analysis

A qualitative research method was used to identify the strategic maneuvers employed by the participants in constructing their arguments, and to explain why they were engaged in this manner. As a result, this research method can be applied comprehensively to the examined data to achieve the study's objective.

By adhering to the eclectic model, the analysis reveals a series of interconnected strategic maneuvers within the selected trial extract. Also, upon completion of the study, the researcher can characterize and establish connections between all the viewpoints presented, thereby contributing to the study's overall findings.

Extract 1

> "**Mr. Chew:** And there are three statements that we respectfully ask each of you to focus on. Statement number one, 'I spoke up against sexual violence and faced our culture's wrath'. Statement number two, 'Two years ago, I became a public figure representing domestic abuse'. And, I want to repeat that because you're going to hear that throughout the case, because the timing here is critical. 'Two years ago, I became a public figure representing domestic abuse'. Statement number three, 'I had the rare vantage point of seeing, in real time, how institutions protect men accused of abuse'.
>
> *Ms. Heard did not use Mr. Depp's name in the op-ed. She didn't have to. She didn't have to because the evidence will show that everyone in Hollywood, where Mr. Depp and Ms. Heard both*

> *have their careers, and many others outside Hollywood knew exactly what she was talking about when she used the word, 'Two years ago, I became a public figure representing domestic abuse'. That's because, as the evidence will show and you will hear, two years earlier, on May 27th, 2016, Ms. Heard had publicly accused Johnny Depp, her husband at the time, of domestic* abuse …
>
> **Mr. Rottenborn:** The article isn't about Johnny Depp. The article is about the social change for which she is advocating and that the First Amendment protects. And so, I hope you remember, as this case goes on, that you saw from Mr. Chew only the three statements in isolation, because they want you to forget that. They don't want you to pay attention to what the article is about.
>
> Now, if it had been Amber's intention to use this article to detail the abuse that she suffered and that you'll hear about over the course of this trial, believe me, the article would have looked very, very different. *She could fill a book with those details. She probably would have started out by calling out Mr. Depp by name*. She probably wouldn't have published it in "The Washington Post". *She would have described in great detail the man who has described himself, the violent side of himself, as the monster*. That's what she would have done. *The monster. She would have told you about the monster. But she didn't. That wasn't the point of this article. And she was careful to avoid that, even having her lawyer review the article to make sure that it was okay, and she relied on that lawyer's advice, and you'll hear testimony on that during the trial*. But because Johnny Depp brought this case and asked for it, all of that is going to come out. *Just know that Amber Heard never wanted to unearth for the public who the real Johnny Depp is, but that's going to come out over the course of this trial".*
>
> (Reporting Depp v. Heard, 2022, Thursday 21 April)

The focus of this extract is Heard's statements in the op-ed piece she wrote for the Washington Post about becoming "a *public figure representing domestic abuse*". Mr. Chew, Depp's lawyer presents his accusation against Heard's indirect attack on Depp's reputation. Another critical point in this extract is the opposing side in the Depp v. Heard case, Mr. Rottenborn, Heard's counsel. He attempts to respond to Mr. Chew's opening statement allegations by emphasizing the importance of focusing on the evidence instead of the false accusations and crazy conspiracy theories Depp's side has leveled against Heard.

6.3.1 Confrontation stage

At this stage, Mr. Chew introduces his standpoint by criticizing a statement made by Heard in the Washington Post: "*Ms. Heard did not use Mr. Depp's name…husband at the time, of domestic* abuse." Mr. Rottenborn takes the opposite stance in response to Mr. Chew's accusation: "*She could fill a book with those details… come out over the course of this trial*."

First: Reasonableness

This is the first component of the strategic maneuvering analysis, illustrated through the presentation of the rules of critical discussion. Since none of the rules have been violated, reasonability is maintained in this maneuver.

Second: Effectiveness

This is the second component of strategic maneuvering, which consists of:

a. Topical potential. This is characterized by a fallacy. Since no rule of reasonableness has been violated, no fallacy is committed.
b. Audience demand. In this strategic maneuver, this particular aspect of the model is satisfied as none of the rules, specifically the rules of critical discussion that pertain to this aspect, have been breached.
c. Presentational devices. This maneuver makes no use of figures of speech.

6.3.2 Opening stage

Mr. Chew, Depp's attorney, plays the protagonist in the discussion by presenting arguments to support his claim. The antagonist in this discussion is Mr. Rottenborn, who also makes arguments to support his claims. It can be observed that, in the argumentation stage, they both rely on certain propositions.

First: Reasonableness

Because no rules have been violated in this maneuver, reasonability is maintained.

Second: Effectiveness

a. Topical potential: No fallacies have been committed.
b. Audience demand: This maneuver satisfies this feature of the model since none of the rules corresponding to it were broken.
c. Presentational devices: This maneuver does not use any figures of speech.

6.3.3 Argumentation stage

From Mr. Chew's standpoint, he asserts that Ms. Heard's op-ed, which refrained from explicitly mentioning Mr. Depp's name or acknowledging their marital status at the time, insinuated his involvement in domestic abuse. Mr. Chew maintains that this insinuation amounted to defamation, as it falsely portrayed Mr. Depp as a domestic abuser. Mr. Rottenborn, in contrast, presents his argument in "*She could*

fill a book with those details… come out over the course of this trial", wherein he states that the topic of Ms. Heard's op-ed was not, in fact, Mr. Depp but the social change of which she approves, and the First Amendment protects her speech. His argument is based on the context of the op-ed and the absence of Mr. Depp's name or any specific details of the abuse. He also uses a counterfactual scenario to show what the op-ed would have looked like if it had been about Mr. Depp. Each side uses these main arguments to support their standpoint in this extract.

First: Reasonableness

Four rules of reasonableness have been violated in the argumentation stage**.** Mr. Chew violates Rule 3 by attacking a standpoint that Heard did not advance in her op-ed, namely that she defamed Depp by name. He also violates Rule 5 by falsely presenting something as a premise that Heard left unexpressed, namely that she was referring to Depp when she claimed to be a prominent advocate for domestic violence. In comparison, Mr. Rottenborn also violates Rule 5 by denying a premise that he left implicit, namely that Heard's statements could be interpreted as referring to Depp. Furthermore, he violates Rule 4 by defending a standpoint irrelevant to the dispute, namely that Heard was advocating for social change and free speech in her op-ed.

Second: Effectiveness

a. Topical potential. Both sides commit four fallacies in this maneuver. Mr. Chew commits a straw man fallacy by misrepresenting the opposing argument. He focuses on three statements made by Ms. Heard and presents them in isolation, implying that they are the article's primary focus. However, Mr. Rottenborn points out that the article is not about Johnny Depp but about advocating for social change, which Mr. Chew conveniently ignores. Also, Mr. Chew commits the fallacy of magnifying what has not been expressed by implying that Heard defamed Depp by name even though he is not mentioned in her op-ed. Mr. Rottenborn also commits the fallacy of an implicit premise conveyed by the protagonist's defense not being recognized, as Heard did not mention Depp's name. Mr. Rottenborn commits the fallacy of non-argumentation. This shows that the classical pathetic fallacy is referenced rather than providing evidence to support the viewpoint.

b. Audience demand. This model component is infringed upon in this maneuver as it violates the rules of reasonableness. Consequently, both sides have breached four rules, as previously demonstrated in the context of reasonableness. Each party tries to present their standpoint to affect the judge and jury.

b. Presentational device. No figure of speech has played a role in this maneuver. Committing fallacies is an obstacle to resolving the difference of opinion and reaching an agreement. Nonetheless, Mr. Rottenborn's claim mentions a particular conclusion: "*Just know that Amber Heard… come out over the course of this trial*." He wants to illustrate to the audience the reality of Depp in this trial.

6.4 Results and discussion

According to the data analysis, the following points can be discussed:

1. Reasonableness at the confrontation stage is maintained since the arguers are confined to the rules of critical discussion as in the opening stage. It shows the willingness of the parties to be dialectical and reasonable at these stages. Both Mr. Rottenborn and Mr. Chew violate Rules 3–5. This reflects the effectiveness of overruled reasonableness in reaching the aim of presenting their case to resolve the disagreement.
2. Effectiveness in the confrontation and opening stages is maintained, including topical potential, audience demand, and presentational device. Strategic maneuvering for the topical potential lies in making an effective choice from the available issues and limiting the disagreement space, while in the argumentation stage there was a violation of the Rule that reflects the way that parties present their topics in a manipulating way. The audience demands in all stages, in the argumentation stage is intended to sway the audience's emotions rather than rely on logical reasoning. In the confrontation and opening stages, both parties addressed the audience reasonably. Furthermore, the arguers in all stages presented the argument straightforwardly; no figure of speech was used.
3. Mr. Rottenborn effectively refutes Mr. Chew's views and persuades the audience by suggesting that Heard was protected by the First Amendment in expressing her broad viewpoint, even though she did not use Depp's name. His justification is based on the op-ed's context and the absence of Mr. Depp's identity or any specifics about the abuse. He also employs a counterfactual scenario to demonstrate what the op-ed might have looked like if it had been about Johnny Depp.

7. Conclusion

The analysis of the strategic maneuvering used in; the Depp vs. Heard court case revealed the following conclusions:

1. Strategic maneuvering successfully maintained the balance between reasonableness and effectiveness in the confrontation, opening, and concluding stages. However, it derailed in the argumentation stage by violating rules that directly affect the audience (the judge and jury) in asking for effectiveness over reasonableness.
2. Mr. Rottenborn successfully refuted Mr. Chew's points and persuaded the audience by claiming the First Amendment right for Heard to express her general opinion since she did not use Depp's name.
3. Neither the protagonist nor antagonist used presentational devices because they presented their standpoints in simple language.
4. In analyzing the strategic maneuvering in the Depp vs. Heard extract, the eclectic model proved beneficial and sufficient.

Mayasa Kadhim Alsalehi- Corresponding Author
Postgraduate Student (MA)
Al-Qadisiyah University
ORCID Number: 0009-0005-6018-669X
Email: miasakadhim1@gmail.com
Tel. +964 07804091832

Rajaa' Mardaan Flayih
Assistant Professor of Linguistics
Al-Qadisiyah University
ORCID Number: https://orcid.org/0000-0001-5915-6286
Email: rajaa.flayih@qu.edu.iq

References

Bertea, Stefano. (2004). 'Certainty, reasonableness and argumentation in law.' *Argumentation*, 18: 465-78.

Bussmann, Hadumod H. (1996). *Routledge Dictionary of Language and Linguistics*. London: Routledge.

Collman, Ashley. (2022). 'Johnny Depp's trial against Amber Heard became the biggest news event in the country because it's the perfect storm of America's obsession with celebrity'. *Insider Magazine*, May 28. https://www.insider.com/why-the-world-became-obsessed-with-the-depp-v-heard-trial-2022-5[] (Retrieved on 26 February, 2024).

Cruse, Alan. (2006). *A Glossary of Semantics and Pragmatics*. Edinburgh: Edinburgh University Press.

Dahlman, Christian and Eveline Feteris. (2013). *Legal Argumentation Theory: Cross-Disciplinary Perspectives*. Dordrecht: Springer.

Eemeren, Frans H. van and Peter Houtlosser . (1999). 'Delivering the goods in critical discussion'. In Frans H. van Eemeren, Rob Grootendorst, James Anthony Blair and Charles Arthur Willard. (eds.), *Proceedings of the Fourth Conference of the International Society for the Study of Argumentation*, 163-167. Amsterdam: Amsterdam University Press. https://archive.org/details/proceedingsoffou0000unse_q1s1

Eemeren, Frans H. van and Peter Houtlosser. (2000). 'Rhetorical analysis within a pragma-dialectical framework'. *Argumentation*, 14: 293-305. https://t.me/c/1930449834/249

Eemeren, Frans H. van and Houtlosser, Peter. (2002). 'Strategic maneuvering in argumentative discourse: Maintaining a delicate balance'. In Frans H. van Eemeren, and Peter Houtlosser (eds.), *Dialectic and Rhetoric: The Warp and Woof of Argumentation Analysis*, 131-159. Dordrecht: Kluwer.

Eemeren, Frans van, Bart Garssen, Erik C.W. Krabbe, A. Francisca Snoeck Henkemans, Bart Verheij and Jean H. M. Wageman. (2014). *Handbook of Argumentation Theory*. The Netherlands: Springer.

Eemeren, Frans van, Rob Grootendorst and Francisca Henkemans Snoeck. (2002). *Argumentation Analysis, Evaluation, Presentation*. Lawrence: Erlbaum Associates.

Eemeren, Frans H. van and Rob Grootendorst. (2004). *A systematic Theory of Argumentation: The Pragma-dialectical Approach*. New York: Cambridge.

Eemeren, Frans H. van, and Houtlosser, Peter. (2006). 'Strategic maneuvering: A synthetic recapitulation'. *Argumentation*, 20(4): 381-392. https://link.springer.com/article/10.1007/s10503-007-9037-z

Eemeren, Frans H. van, Peter Houtlosser and A. Francisca Sn Henkemans. (2007). *Argumentative Indicators: A Pragma-dialectical Study*. The Netherlands: Springer.

Eemeren, Frans H. van, Garssen, Bart, and Meuffels, Bert. (2009). *Fallacies and Judgments of Reasonableness: Empirical Research Concerning the Pragma-dialectical Discussion Rules*. The Netherland: Springer.

Eemeren, Frans H. van, and Houtlosser, Peter. (2009). 'Strategic maneuvering'. In Frans H. van Eemeren (ed), *Examining Argumentation in Context: Fifteen Studies on Strategic Maneuvering*, (pp. 1-24). Amsterdam: John Benjamins Publishing.

Eemeren, Frans H. van. (2010). *Strategic Maneuvering in Argumentative Discourse: Extending the Pragma-dialectical Theory of Argumentation*. Amsterdam: John Benjamins Publishing Company.

Eemeren, Frans H. van. (2017). 'Argumentation theory and argumentative practice: A vital but complex relationship'. *Informal Logic*, 37(4): 322-350. https://t.me/c/1930449834/260.

Eemeren, Frans H. van. (2018). *Argumentation Theory: A Pragma-dialectical Perspective*: The Netherland: Springer.

Fairfax County Circuit Court. (2022). *John C. Depp, II v. Amber Laura Heard*. https://www.fairfaxcounty.gov/circuit/high-profile-cases

Feteris, T. Eveline. (1997). 'A survey of 25 years of research on legal argumentation'. *Argumentation*, 11(3): 355-376.

Feteris, T. Eveline. (1999). *Fundamentals of Legal Argumentation: A Survey of Theories on the Justification of Judicial Decisions*. Dordrecht: Kluwer.

Hage, Jaap. (2013). 'Construction or reconstruction? On the function of argumentation in the law'. In Christian Dahlman, and Eveline Feteris (eds.), *Legal Argumentation Theory: Cross-disciplinary Perspectives*, 125-143. Dordrecht: Springer.

Law and Crime Network. (2022). *Johnny Depp-Amber Heard Defamation Trial*. [Video].YouTube. https://youtube.com/playlist?list=PLoW1SIeAWaWb1IDY_WuLKvZygiJudUBSd

McGlone, Matthew. (2007). 'What is the explanatory value of a conceptual metaphor?'. *Language and Communication*, 27: 109-126.

McQuarrie, F. Edward, and Mick, David Glen. (1996). 'Figures of rhetoric in advertising language'. *The Journal of Consumer Research*, 22(4): 424-438. https://doi.org/10.1086/209459

Merchant, Jason. (2010). 'Three types of ellipsis'. In Francos Recanati, Isidora Stojanovic and Neftali Villanueva (eds.), *Context-dependence, Perspective and Relativity*, 143. Berlin: De Gruyter Mouton.

Puente, Maria. (2022). 'Johnny Depp vs. Amber Heard: Opening statements feel familiar to London trial from 2020'. *SA TODAY* April, 22. https://www.usatoday.com/story/entertainment/celebrities/2022/04/12/johnny-depp-v-amber-heard-opening-statements-begin-defamation-suit/7291025001/ (Retrieved on 26 February, 2024).

Reporting Depp vs. Heard (2022). Transcripts. https://reportingdeppvheard.net/depp-v-heard-2022/transcripts/ (Retrieved on 26 February, 2024).

Rosenblatt, Kalhan. (2022, Dec. 19). 'Johnny Depp and Amber Heard defamation trial: Summary and timeline'. *NBC News.* https://www.nbcnews.com/pop-culture/pop-culture-news/johnny-depp-amber-heard-defamation-trial-summary-timeline-rcna26136 (Retrieved on 26 February, 2024).

Tindale, Christopher William. (2006). 'Constrained maneuvering: Rhetoric as a rational enterprise'. *Argumentation*, 20: 447-466. https://citeseerx.ist.psu.edu/document?repid=rep1andtype=pdfanddoi=25da3c060f0ae7073fc23668e3156a89f038e300

Walton, Douglas. (2002). *Leal Argumentation and Evidence*. Pennsylvania: The Pennsylvania State University Press.

Walton, Douglas. (2007). *Dialog Theory for Critical Argumentation*. Amsterdam: John Benjamins Publishing Company.

Walton, Douglas, Reed, Chris, and Macagno, Fabrizio. (2008). *Argumentation Schemes*. Cambridge: Cambridge University Press.

Yule, George. (2010). *The study of Language.* Cambridge: Cambridge University Press.