§ 299. Joinder of parties

(a) Joinder of Accused Infringers.— With respect to any civil action arising under any Act of Congress relating to patents, other than an action or trial in which an act of infringement under section 271 (e)(2) has been pled, parties that are accused infringers may be joined in one action as defendants or counterclaim defendants, or have their actions consolidated for trial, or counterclaim defendants only if—

(1) any right to relief is asserted against the parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process; and

(2) questions of fact common to all defendants or counterclaim defendants will arise in the action.

(b) Allegations Insufficient for Joinder.— For purposes of this subsection, accused infringers may not be joined in one action as defendants or counterclaim defendants, or have their actions consolidated for trial, based solely on allegations that they each have infringed the patent or patents in suit.

(c) Waiver.— A party that is an accused infringer may waive the limitations set forth in this section with respect to that party.