

## D. Summary and Conclusion

In Germany, a broad genus claim or even a genus with two species disclosure in prior art cannot prevent the species be patented per se., which could be regarded as what applies in other jurisdictions. In the U.K., there is no longer a need to prove the selection has a substantial advantage over the wider group where the selection was made<sup>142</sup> and even a known product can be patented as a product per se depending how difficult it is to make it available. In the U.S., the much-disputed KSR decision does not seem to influence enough at least on *Escitalopram* decision. As a brief conclusion, it would be fair to say that it gets to be more difficult to challenge the selection inventions, and easier to get patents on them. These series of changes on patentability will be further analysed in the following section.

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142 Fitt, *supra* note 85, at 20.