Pre-Interview Communication	Application No.	Applicant(s)	
(For use in the First Action Interview Pilot Program) Example 1	XXXXXXXXX	XXXXXX	
	Examiner	Art Unit	Page 1 of 2
	XXXXXXX	XXXX	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **ONE MONTH OR THIRTY (30) DAYS,** WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

This time period for reply is NOT extendable under 37 CFR 1.136(a). This communication constitutes notice under 37 CFR 1.136(a)(1)(i).

To avoid abandonment of the application, applicant must, within this time period for reply, file:

(1) A letter requesting <u>not</u> to have a first-action interview, or

(2) A completed Applicant Initiated Interview Request Form (PTOL-413A) accompanied by a proposed amendment or arguments.

Inventor participation in the Pre-First Action Interview is encouraged if it would expedite resolution of the application.

Disposition of Claims

3)☒ Claim(s) *1-8* is/are pending in the application.

    3a) Of the above claim(s) _____ is/are withdrawn from consideration.

4)☐ Claim(s) _____ appear to be allowable.

5)☒ Claim(s) *1-8* appear to be rejectable.

6)☐ Claim(s) _____ may be subject to an objection.

7)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

8)☐ The specification may be subject to an objection by the Examiner.

9)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ may be subject to an objection by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

10)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

11)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  *See the attached detailed Office action for a list of the certified copies not received.

Contact Information

    Examiner's Telephone Number: (571)272-XXXX

    Examiner's Typical Work Schedule: Monday-Friday, 8 a.m. - 4:30 p.m.

    Supervisor's Name: Supervisor XXXX

    Supervisor's Telephone Number: (571) 272-XXXX

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Pre-Interview Communication
Example 1

Application No. XXXXXXXX	**Applicant(s)** XXXXXX		
Examiner XXXXXXX	**Art Unit** XXXXXX		

Notification of Potential Rejection(s) and/or Objection(s)

#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Potential Rejection
1	1-8		101	Claim 1 recites a binary translator with various components. The binary translator as claimed is software per se and software is not considered patentable subject matter. Claims 2-8 depend on 1 and do not include hardware so as to overcome the rejection.
2	1-8		112, 1st	Claim 1 recites the limitation of "replace disabled legacy binary instructions with native instructions". However, according to the specification, on page 6, lines 1-3, "…used to disable… insert new native instructions without (see continuation below)
3	1-5, 7-8	U	102(b)	Claim 1 (Figure 1, 1st para, 3rd para, Section "3.1 Components", 4th &5th paragraph - note the claimed "processor means" is interpreted as the CPU in fig. 1); 2 (Fig. 1); 3 (Section 3.1, 4th para); 4 (section 4.2, para 9 - note this) (see continuation below)
4	6	U,V	103(a)	U does not disclose said native instruction processor as claimed. V discloses this at section 2.1, 2nd paragraph. As one would want to to have better code for hot spots in order to improve performance (see V, section 2.1), it would have (see continuation)

Expanded Discussion/Commentary

2		altering the original legacy instructions." Thus, the specification does not disclose replacing disabled legacy binary instructions. On the contrary, the specification specifically discloses not altering the original legacy binary instructions. The claim limitation of claim 1 contradicts with what the disclosure describes. Thus, this subject matter was not described in the specification in such a way to enable one skilled in the art to make and use the invention without undue experimentation.
3		section states that "any kind of memory can be used"); 5 (Section 3.1 5th para); Claim 7 (Section 3, Resourceable and Retargetable Binary Translation); 8 (Section 3.1, 4th para).
4		been obvious to include the native instruction processor in the system described in V.

DATE:	**Examiner Signature:**	**Primary Examiner Signature:**

Pre-Interview Communication

Part of Paper No./Mail Date

		Application/Control No.	Applicant(s)/Patent Under Reexamination	
Notice of References Cited Example 1		XXXXXX	XXXXX	
		Examiner	Art Unit	Page 1 of 1
		XXXXX	XXXX	

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-			
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Smith, A Universal Compiler. IEEE. 2001. pp. 100-150.
	V	Brown, Code management. IEEE. 2000. pp. 30-50.
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.