The following questions may or may not be typical of the multiple choice questions that will appear on the final examination. However, they are questions that I initially made up for a property final exam and would likely have appeared on the exam but for my using them to give you a “flavor” of the way I write questions. Answers are on the last page.

1. Trespasser T₁ captures a wild animal on O’s land and carries it off, confining the animal in a cage on T₁’s land. Trespasser T₂ then trespasses on T₁’s land and takes the animal. Which of the following statements is most nearly correct concerning the relative ownership rights in the animal among O, T₁, and T₂?

A. T₁ owns the animal, although T₁ may be liable to O for trespass; O’s failure to take the animal into actual possession means that O lost any claim when the animal left O’s land, but T₁ had actual possession at the time of T₂’s trespass, so T₁ also prevails over T₂.

B. T₂ owns the animal; O’s failure to take the animal into actual possession means that O lost any claim when the animal left O’s land, and T₁ has no valid claim because T₁ acquired the animal by means of trespass, a wrongful act.

C. O is the owner of the animal because the animal’s presence on O’s land gave O actual possession; as between T₁ and T₂, T₁ has the better claim because T₁ was first in time.

D. O is the owner of the animal because the law deems O to have had constructive possession, as a means of discouraging trespass; as between T₁ and T₂, T₁ has the better claim because T₁ had actual possession.

E. O is the owner of the animal because the law deems O to have had constructive possession, as a means of discouraging trespass; as between T₁ and T₂, T₁ has the better claim because, although T₁ too had only constructive possession, T₁ was first in time.

2. Which of the following statements best (if still quite imperfectly) captures the essential points made by Harold Demsetz (text p.41 et seq)?

A. Eliminating communal ownership in favor of private ownership eliminates economically inefficient externalities.

B. Eliminating communal ownership in favor of private ownership eliminates many externalities and reduces negotiating costs with respect to many that remain.

C. Eliminating communal ownership in favor of private ownership eliminates many
externalities but comes at a cost of increasing negotiating costs with respect to
many that remain.

D. Eliminating communal ownership in favor of private ownership has little direct
effect on reducing externalities but significantly reduces negotiating costs with
respect to externalities.

E. Eliminating communal ownership in favor of private ownership had the effect in
the fur trade of eliminating many externalities and reducing negotiating costs with
respect to many that remained; however, he worries whether that experience can
be generalized to other economic activities.

3. In *eBay, Inc. v. Bidder’s Edge, Inc.* (handout case), the court states the elements of a
trespass to chattels claim as (1) intentional interference, without authorization, with
plaintiff’s possessory interest in the chattel (here, a computer system), and (2) damage
proximately caused by the unauthorized use. Which of the following best describes the
court’s reasons for concluding that both elements were satisfied in that case?

A. The interference in element (1) must be substantial, and in this case the record
showed substantial interference; BE’s actions in themselves deprived eBay of the
use of its property to such an extent that access was at least occasionally denied to
eBay’s customers, causing damage under element (2).

B. The interference in element (1) must be substantial, and in this case the record
showed substantial interference; BE’s actions, if allowed, would encourage others
to crawl the eBay site in the same way, depriving eBay of the use of its property to
such an extent that access would likely be denied to eBay’s customers, causing
damage under element (2).

C. The interference in element (1) need not be substantial and here there was at least
some interference; BE’s actions in themselves deprived eBay of the use of its
property to such an extent that access was at least occasionally denied to eBay’s
customers, causing damage under element (2).

D. The interference in element (1) need not be substantial and here there was at least
some interference; BE’s actions, if allowed, would encourage others to crawl the
eBay site in the same way, depriving eBay of the use of its property to such an
extent that access would likely be denied to eBay’s customers, causing damage
under element (2).

E. The interference in element (1) need not be substantial and here there was at least
some interference; damages under element (2) were shown by the extra
investment eBay was forced to make in its system to accommodate BE’s
unauthorized use.
Answers

1. D
2. B
3. D