

CARBONITE INC

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 03/16/17

Address	TWO AVENUE DE LAFAYETTE BOSTON, MA 02111
Telephone	6175871140
CIK	0001340127
Symbol	CARB
SIC Code	7374 - Computer Processing and Data Preparation and Processing Services
Industry	IT Services & Consulting
Sector	Technology
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

CARBONITE, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation
or organization)

33-1111329
(IRS Employer
Identification No.)

**2 Avenue de Lafayette
Boston, Massachusetts**
(Address of principal executive offices)

2011 Equity Award Plan
(Full title of the plan)

**Mohamad Ali
Chief Executive Officer
Carbonite, Inc.
2 Avenue de Lafayette
Boston, Massachusetts 02111
(617) 587-1100**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 121b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

(Do not check if a smaller reporting company)

Accelerated filer

Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, par value \$0.01 per share	1,088,671 (2)	\$20.75 (3)	\$22,589,927	\$2,618.17

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's common stock, par value \$0.01 per share (the "Common Stock"), that become issuable under the 2011 Equity Award Plan (the "2011 Plan") by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the Registrant's outstanding shares of Common Stock.
- (2) Represents 1,088,671 additional shares of Common Stock reserved for future issuance under the 2011 Plan.
- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act. The Proposed Maximum Offering Price per Share is \$20.75, which is the average of the high and low prices of the Registrant's Common Stock as reported on The NASDAQ Stock Market on March 10, 2017 (rounded up to the nearest cent).

**Proposed sale to take place as soon after the effective date of the
Registration Statement as awards under the 2011 Plan are exercised and/or vest.**

REGISTRATION OF ADDITIONAL SECURITIES

Carbonite, Inc. (the "Company") filed with the Securities and Exchange Commission the following Registration Statements on Form S-8 relating to shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"), to be offered and sold under 2011 Equity Award Plan (the "2011 Plan") and the contents of such prior Registration Statements are incorporated by reference in this Registration Statement: (1) Registration Statement on Form S-8 filed August 17, 2011 (File No. 333-176373), (2) Registration Statement on Form S-8 filed March 8, 2012 (File No. 333-179988), (3) Registration Statement on Form S-8 filed March 6, 2013 (File No. 333-187089), (4) Registration Statement on Form S-8 filed March 5, 2014 (File No. 333-194332), (5) Registration Statement on Form S-8 filed March 10, 2015 (File No. 333-202645) and (6) Registration Statement on Form S-8 filed March 8, 2016 (File No. 333-210017). The Company is hereby registering an additional 1,088,671 shares of Common Stock issuable under the 2011 Plan, none of which have been issued as of the date of this Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 8. EXHIBITS

Exhibit Number	Exhibit Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
4.1	Amended and Restated Certificate of Incorporation	10-Q	011-35264	3.1	11/10/2011	
4.2	Amended and Restated Bylaws	S-1/A	333-174139	3.2	7/13/2011	
5.1	Opinion of Foley & Lardner LLP					X
23.1	Consent of Ernst & Young, independent registered public accounting firm					X
23.2	Consent of Foley & Lardner LLP (included in Exhibit 5.1)					X
24.1	Power of Attorney (included on the signature page of this registration statement)					X
99.2	2011 Equity Award Plan	S-1/A	333-174139	10.2	7/13/2011	

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Boston, Massachusetts on this 16th day of March, 2017.

CARBONITE, INC.

By: /s/ Anthony Folger
Anthony Folger
Chief Financial Officer

POWER OF ATTORNEY AND SIGNATURES

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Mohamad Ali, Anthony Folger and Cassandra Hudson, jointly and severally, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign the registration statement on Form S-8 of Carbonite, Inc., and any or all amendments (including post-effective amendments) thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises hereby ratifying and confirming all that said attorneys-in-fact and agents, or his, her, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Mohamad Ali</u> Mohamad Ali	Chief Executive Officer and Director (Principal Executive Officer)	March 16, 2017
<u>/s/ Anthony Folger</u> Anthony Folger	Chief Financial Officer (Principal Financial Officer)	March 16, 2017
<u>/s/ Cassandra Hudson</u> Cassandra Hudson	Chief Accounting Officer (Principal Accounting Officer)	March 16, 2017
<u>/s/ Stephen Munford</u> Stephen Munford	Chairman of the Board	March 16, 2017
<u>/s/ Jeffry Flowers</u> Jeffry Flowers	Director	March 16, 2017
<u>/s/ Charles Kane</u> Charles Kane	Director	March 16, 2017
<u>/s/ Todd Krasnow</u> Todd Krasnow	Director	March 16, 2017
<u>/s/ Peter Gyenes</u> Peter Gyenes	Director	March 16, 2017
<u>/s/ Scott Daniels</u> Scott Daniels	Director	March 16, 2017
<u>/s/ David Friend</u> David Friend	Director	March 16, 2017

INDEX TO EXHIBITS

Exhibit Number	Exhibit Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
4.1	Amended and Restated Certificate of Incorporation	10-Q	011-35264	3.1	11/10/2011	
4.2	Amended and Restated Bylaws	S-1/A	333-174139	3.2	7/13/2011	
5.1	Opinion of Foley & Lardner LLP					X
23.1	Consent of Ernst & Young, independent registered public accounting firm					X
23.2	Consent of Foley & Lardner LLP (included in Exhibit 5.1)					X
24.1	Power of Attorney (included on the signature page of this registration statement)					X
99.2	2011 Equity Award Plan	S-1/A	333-174139	10.2	7/13/2011	



ATTORNEYS AT LAW
111 HUNTINGTON AVENUE
BOSTON, MASSACHUSETTS 02199
617.342.4000 TEL
617.342.4001 FAX
foley.com

March 16, 2017

CLIENT/MATTER NUMBER
052974-0198

Carbonite, Inc.
2 Avenue de Lafayette
Boston, Massachusetts 02111

Re: Carbonite, Inc.
Registration Statement on Form S-8

Ladies and Gentlemen:

This opinion is furnished to you in connection with the Registration Statement on Form S-8 (the "Registration Statement") filed by Carbonite, Inc., a Delaware corporation (the "Company") with the United States Securities and Exchange Commission (the "Commission") in connection with registration under the Securities Act of 1933, as amended (the "Securities Act"), of 1,088,671 shares of the Company's common stock, par value \$0.01 per share (the "Shares") issuable under the Company's 2011 Equity Award Plan (the "2011 Plan").

We have acted as counsel for the Company in connection with the registration of the Shares. In such capacity, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary for the purposes of rendering this opinion. In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with the originals of all documents submitted to us as copies.

We express no opinion herein as to the laws of any state or jurisdiction other than the General Corporation Law of the State of Delaware (including the statutory provisions and all applicable judicial decisions interpreting those laws) and the federal laws of the United States of America. This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the prospectus that forms a part thereof, other than as expressly stated herein with respect to the issuance of the Shares.

Based upon the foregoing examination and in reliance thereon, and subject to the assumptions stated and in reliance on the statements of fact contained in the documents that we have examined, we are of the opinion that when the Shares shall have been duly registered on the books of the transfer agent and registrar in the names or on behalf of the purchasers, and have been issued by the Company against payment therefor (not less than par value) in the circumstances contemplated by and pursuant to the 2011 Plan, and assuming in each case that the individual issuances, grants, or awards under the 2011 Plan are duly authorized by all necessary corporate action of the Company and duly issued, granted, or awarded and exercised in accordance with the requirements of laws and the 2011 Plan (and the agreements and awards duly adopted thereunder and in accordance therewith), the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company and the Shares will be validly issued, fully paid, and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the General Corporation Law of the State of Delaware.

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

Carbonite, Inc.
March 16, 2017
Page 2

This opinion is for your benefit in connection with the Registration Statement and may be relied upon only by you and by persons entitled to rely upon it pursuant to applicable provisions of the Securities Act. We consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Foley & Lardner LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the 2011 Equity Award Plan of Carbonite, Inc. of our reports dated March 16, 2017, with respect to the consolidated financial statements of Carbonite, Inc. and the effectiveness of internal control over financial reporting of Carbonite, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2016, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Boston, Massachusetts
March 16, 2017