SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

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FALCONSTOR SOFTWARE INC
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): <u>January 10, 2013</u>

FALCONSTOR SOFTWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware	0-23970	77-0216135
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

2 Huntington Quadrangle, Melville, New York	11747
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: <u>631-777-5188</u>

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 8.01.   Other Events

On January 10, 2013, the Company issued a press release announcing that it had entered into an agreement to settle the class action lawsuit pending against the Company.

The text of a press release issued by the Company is furnished as Exhibit 99.1 and is incorporated herein by reference.

Item 9.01.   Financial Statements and Exhibits

(c)   Exhibits

Exhibit Number	Description
99.1	Press release of the Company dated January 10, 2013.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

FALCONSTOR SOFTWARE, INC.

Dated: January 10, 2013

By: /s/ Louis J. Petrucelly
Name: Louis J. Petrucelly
Title: Vice President and Chief Financial Officer

Exhibit 99.1

FalconStor®
Defining Data Protection, Again.™

Contact: Joanne Ferrara, Investor Relations
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FalconStor Software Reaches Agreement to Settle Class Action Lawsuit

MELVILLE, N.Y., January 10, 2013—FalconStor Software, Inc. (NASDAQ: FALC), a market leader in disk-based data protection, today announced that it had reached a settlement in principle of the class action lawsuit pending against the Company.

Pursuant to a Memorandum of Understanding signed by counsel for the class plaintiffs and by counsel for all defendants, FalconStor will pay $5 million to settle the action. This amount includes damages, plaintiffs' attorneys' fees, and costs of administration of the settlement. The Company expects to pay this settlement with a combination of cash on hand and insurance proceeds.

"The agreement to settle the class action lawsuit represents another significant step forward for our Company and our shareholders. As a result, we have emerged as a stronger company, better equipped than ever to continue the technological innovation for which we are known and to increase shareholder value," said Jim McNiel, president and chief executive officer of FalconStor. "The improper acts of a few individuals that resulted in the government investigations and the class action lawsuit were contrary to our core values and ethical policies. Over the last two years, we have taken aggressive measures to improve and to strengthen our business processes and compliance programs."

In accordance with the Memorandum of Understanding, a stipulation of settlement and a joint motion for preliminary approval of the settlement will be submitted to the court for its approval no later than March 11, 2013. Final settlement of the class action lawsuit is subject to certain conditions and to approval by the court.

About FalconStor Software
FalconStor Software, Inc. (NASDAQ: FALC) is a market leader in disk-based data protection. The company's mission is to transform traditional backup and disaster recovery into next-generation service-oriented data protection. Built upon an award-winning platform, FalconStor solutions deliver disk-based backup, continuous data protection, WAN-optimized replication and disaster recovery automation. FalconStor solutions are available through a worldwide network of partners, including solution providers, top-tier strategic partners and major OEMs. Thousands of customers worldwide, from small businesses to Fortune 100 enterprises, entrust their data to FalconStor solutions. FalconStor maintains headquarters in Melville, N.Y., and offices throughout Europe and the Asia Pacific region. For more information, visit www.falconstor.com or call 1-866-NOW-FALC (866-669-3252).

# # #

This press release includes forward-looking statements that involve risk and uncertainties that could cause actual results to differ materially from the forward-looking statements. These risks and uncertainties include: delays in product development; market acceptance of FalconStor's products and services; technological change in the data protection industry; competition in the data protection market; results and costs associated with governmental investigations; intellectual property issues; and other risk factors discussed in FalconStor's reports on Forms 10-K, 10-Q and other reports filed with the Securities and Exchange Commission.

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